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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

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I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 63/105, the Secretary-General submitted to the Assembly at its sixty-fourth session a report on the question of Western Sahara (A/64/185). The report covered the period from 1 July 2008 to 30 June 2009 and reviewed the activities carried out by the Secretary-General in the exercise of his good offices.

2. Also during the period under review, the Secretary-General submitted a report to the Security Council on the situation concerning Western Sahara (S/2009/200 and Corr.1) pursuant to Security Council resolution 1813 (2008).

3. In that resolution, the Security Council, having considered the report of the Secretary-General (S/2008/251), endorsed the recommendation in the report that realism and a spirit of compromise by the parties were essential to maintain the momentum of the process of negotiations. The Council called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue in order to enter into a more intensive and substantive phase of negotiations, thus ensuring implementation of resolutions 1754 (2007) and 1783 (2007) and the success of negotiations; and affirmed its strong support for the commitment of the Secretary-General and his Personal Envoy towards a solution to the question of Western Sahara. The Council went on to call upon the parties to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in that respect. The Council decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 April 2009.

4. Pursuant to Security Council resolution 1813 (2008), the Secretary-General submitted a report dated 13 April 2009 to the Security Council (S/2009/200 and Corr.1). In that report, the Secretary-General informed the Council that, following the end of the mandate of his Personal Envoy, Peter van Walsum, in August 2008, the Secretariat had held numerous discussions with the parties and other interested actors regarding a fifth round of negotiations. In September 2008, the Secretary-General had met with the Minister for Foreign Affairs and Cooperation of Morocco, Taïb Fassi Fihri, and had discussed with him how best to move the negotiating process forward. The Under-Secretary-General for Political Affairs, B. Lynn Pascoe, had visited Morocco on 14 and 15 October 2008 for further discussions on the issue. On 4 November, the Secretary-General had met with the Secretary-General of the Frente Popular para la Liberación de Saguia el-Hamra y Río de Oro (Frente Polisario), Mohamed Abdelaziz. At those meetings, the Secretary-General had reiterated to the parties the commitment of the United Nations to pursuing the process of negotiations as mandated by the Security Council and had emphasized the fact that future negotiations would build on the progress made in the four rounds of talks held in Manhasset, New York, United States of America, and that his new Personal Envoy would be guided by Council resolution 1813 (2008) and earlier resolutions. The Personal Envoy would also take into account the progress made to

date in the quest to achieve a just, durable and mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara.

5. In January 2009, the Secretary-General appointed Christopher Ross as his new Personal Envoy. Since then, Mr. Ross has held consultations with representatives of Morocco and the Frente Polisario, as well as with representatives of the neighbouring countries, Algeria and Mauritania, and with other interested countries. From 17 to 28 February and from 22 June to 1 July 2009, he undertook two missions to the region for in-depth consultations with the parties and neighbouring States on ways to move the process of negotiations into a more intensive and substantive phase. In addition, the Personal Envoy visited the capitals of Spain, France and the United States as members of the Group of Friends of Western Sahara for consultations on the negotiations. Subsequent to his exploratory visits to the region, the Personal Envoy informed the Secretary-General that, during his meetings in Rabat, Tindouf, Nouakchott and Algiers, all of his interlocutors had confirmed their commitment to cooperating with the United Nations with a view to reaching a solution to the issue of Western Sahara as soon as possible, as a prerequisite for the stability, integration and development of the region and for the return of the Western Saharan refugees to normal life. The Personal Envoy informed the Secretary-General that the positions of the parties had not changed since the fourth round of negotiations, held in Manhasset from 16 to 18 March 2008, and remained far apart on ways to achieve a just, lasting and mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara, as called for by the Security Council (see S/2008/251, para. 43).

6. As for maintenance of the ceasefire, the Secretary-General informed the Security Council that, overall, the situation remained calm in the Territory and that MINURSO continued to enjoy good relations with the parties. Violations of military agreement No. 1 by both parties, excluding those pertaining to the freedom of movement of MINURSO military observers, had decreased. MINURSO had observed and recorded 11 new violations by the Royal Moroccan Army, a slight decrease compared with the 14 recorded between April 2007 and April 2008, and 7 new violations by the Frente Polisario, a significant decrease compared with the 22 recorded during the same period in 2007-2008. There had been no change in the status of long-standing violations by both sides since the previous report of the Secretary-General to the Council (S/2008/251).

7. With regard to humanitarian activities and efforts led by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP), the provision by WFP of 125,000 monthly general feeding rations to Western Saharan refugees continued, along with school feeding and supplementary feeding for malnourished children under five years old and for pregnant women and nursing mothers. Despite those efforts, a nutrition assessment study conducted in May 2008 by WFP and Médicos del Mundo, a Spanish non-governmental organization, had revealed that malnutrition remained a major problem in the camps. Following an inter-agency initiative to develop a nutrition strategy, WFP and UNHCR had launched a joint mission aimed at enhancing the impact of their nutrition interventions.

8. With regard to confidence-building measures, between April 2008 and March 2009, 36 round-trip family visits had been conducted, and 1,114 persons had travelled to the refugee camps near Tindouf, while 1,088 had travelled to cities in

the Territory west of the berm. The free-of-charge telephone service between the refugees in the Tindouf camps and their family members in the Territory continued to be provided through telephone centres in four refugee camps. Between January 2004 — when the service was launched — and March 2009, more than 105,705 telephone calls had been made. Following the talks held between the representatives of Morocco and the Frente Polisario in Manhasset in March 2008, and pursuant to Security Council resolution 1813 (2008), UNHCR had embarked on a process of negotiations with the concerned parties with a view to expanding family visits through land transportation. To that end, UNHCR was seeking the agreement of the Frente Polisario and Morocco, as well as of the Government of Algeria, on road transportation modalities. UNHCR was also considering the introduction of additional activities, including joint summer camps for children from the Territory and the refugee camps, as well as the exchange of family visits on special social occasions, such as weddings, funerals and the hajj. UNHCR had made several proposals to the parties and kept the donor community involved. The proposal to expand the programme of confidence-building measures came in response to the frustration expressed by the beneficiaries with regard to the relatively limited capacity of the present programme.

9. As for human rights, international non-governmental organizations concerned with human rights and other sources had reported the alleged harassment and arrest of Western Saharan human rights and political activists, and had pointed to incidents where the rights to freedom of expression, association and assembly appeared to have been compromised by Moroccan authorities in the Territory. During the period under review, the Secretary-General of the Frente Polisario wrote to the Secretary-General on a number of occasions to express concern about alleged violations of the human rights of Western Saharans in the Territory. In addition, the Moroccan media reported alleged human rights abuses in the Western Saharan refugee camps near Tindouf. On several occasions, in meetings with senior United Nations officials, Moroccan interlocutors expressed concern about the deteriorating humanitarian situation of the refugees in the Tindouf camps and the alleged violations of their human rights.

10. In his observations and recommendations, the Secretary-General welcomed the commitment of the parties to continuing the process of negotiations as stated in the final communiqué issued at their fourth round of talks, held in March 2008 in Manhasset, a position which was reiterated in the meetings held with the Personal Envoy during his visits to the region in February and June 2009. The Personal Envoy suggested to the parties that one or more small, informal preparatory meetings be held. The parties indicated their agreement with that approach and the first informal meeting had been scheduled for 9 to 12 August 2009 in Austria.

11. A communiqué issued after those informal talks had indicated that, at the invitation of the Personal Envoy of the Secretary-General, delegations from Morocco and the Frente Polisario had met for in-depth discussions in Duerndstein, Austria, on 10 and 11 August 2009, in accordance with Security Council resolution 1871 (2009). The discussions had taken place in an atmosphere of serious engagement, frankness, and mutual respect. The parties had reiterated their commitment to continuing their negotiations as soon as possible, and the Personal Envoy would fix the date and place of the next meeting in consultation with the parties. Delegations from the neighbouring States, Algeria and Mauritania, had also

been present at the opening and closing sessions and had been consulted separately during the discussions.

12. On 2 February 2010, the Secretary-General issued a statement in which he said that he was pleased that the parties had agreed to the proposal made by his Personal Envoy that the next set of informal talks on Western Sahara be held on 10 to 11 February 2010. The Secretary-General encouraged the parties to make further progress and urged focused and productive discussions.

13. The meeting, which was based on the guidance provided by Security Council resolution 1871 (2009) and earlier resolutions, had been held in Westchester County, New York, United States of America, on the dates planned. A communiqué issued following those informal talks had indicated that, at the invitation of the Personal Envoy of the Secretary-General, delegations from Morocco and the Frente Polisario had met for a second round of informal talks on 10 and 11 February 2010, in Westchester County, in accordance with Security Council resolution 1871 (2009). Delegations from the neighbouring States, Algeria and Mauritania, had also been present at the opening and closing sessions and had been consulted separately during the discussions. As had been the case in the first informal talks held in August 2009, the discussions had taken place in an atmosphere of serious engagement, frankness, and mutual respect. The proposals of the two parties had again been presented and discussed. By the end of the meeting, neither party had accepted the proposal of the other as the sole basis of future negotiations. The parties had reiterated their commitment to continuing their negotiations as soon as possible. To that end, the Personal Envoy intended to travel to the region to consult further with the parties and other stakeholders.

14. The United Nations High Commissioner for Refugees, António Guterres, visited Algeria (Algiers and Tindouf), Morocco (Rabat) and Western Sahara (Laayoune) from 8 to 12 September 2009. During that visit, he secured agreement to expand confidence-building measures for Sahrawi refugees from Western Sahara, specifically with regard to a UNHCR proposal to allow people to travel overland, rather than by air only, for family visits.¹

II. Consideration by the Security Council

15. After consideration of the report of the Secretary-General on the situation concerning Western Sahara (S/2009/200 and Corr.1), on 30 April 2009, the Security Council unanimously adopted resolution 1871 (2009), in which it called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue in order to enter into a more intensive and substantive phase of negotiations, thus ensuring implementation of resolutions 1754 (2007), 1783 (2007) and 1813 (2008) and the success of negotiations, and affirmed its strong support for the commitment of the Secretary-General and his Personal Envoy towards a solution to the question of Western Sahara. The Council also called upon the parties to continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the

¹ UNHCR official website, <http://www.unhcr.org/4aaf6edc6.html>, accessed on 3 March 2010.

people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in that respect. The Council decided to extend the mandate of MINURSO until 30 April 2010.

III. Consideration by the General Assembly

16. During the general debate at the sixty-fourth session of the General Assembly, a number of representatives referred to the question of Western Sahara in their statements. During the debate in the Special Political and Decolonization Committee (Fourth Committee), held from 7 to 14 October 2009, a number of Member States also made reference to the question of Western Sahara.

17. At its 6th meeting, on 9 October 2009, the Fourth Committee heard statements on Western Sahara by the following Member States: Algeria, Benin, Bolivia (Plurinational State of), Brazil, Burkina Faso, Comoros, Congo, Democratic Republic of the Congo, Equatorial Guinea, Fiji, Gabon, Guinea, Lesotho, Mozambique, Namibia, Nicaragua, Pakistan, United Republic of Tanzania and Zambia (see A/C.4/64/SR.6).

18. At its 3rd meeting, on 6 October 2009, the Committee heard statements by the following petitioners on the question of Western Sahara: Nancy Huff, Leah Farish, Cynthia Basinet, Cheryl Banda, Janet Lenz, Danica Ruth Stanley, Dan Stanley, Tim Kustusch, Monsignor Jean Abboud, Boi-Tia Stevens speaking on behalf of Ms. Aminatou Haidar, Nina Nedrebo, Rosario García Díaz, Jesus Loza Aguirre, Antonio López Ortiz, Latifa Aït-Baala, Felipe Briones Vives, Smail Debeche, Hassiba Boulmerka, Rafael Esparza Machín, Alouat Hamoudi and Lord Francis Newall (see A/C.4/64/SR.3).

19. At its 4th meeting, on 7 October, the Committee heard statements by the following petitioners on the question of Western Sahara: Bougattaya Sadek, Ahmed Boukhari, Michel de Guillenchmidt, Pedro Pinto Leite, Ahmedou Ould Souilem, Sixto Preira Galeano, Anna Maria Stame Cervone, Erik Jensen, Fernando Fernández Martín, Tanya Warburg, Jean-Yves de Cara, Senia Bachir-Abderahman, Julien Dedenis and Sydney Assor (see A/C.4/64/SR.4).

20. At its 5th meeting, on 8 October, the Committee heard statements by the following petitioners on the question of Western Sahara: Said Ayachi, Nadia Hamoudi, Philippe Elghouayel, Jane Bahajjoub, Agaila Abba Hemeida, Teresa Táboas Veleiro, El Mami Boussif, Jeremy Corbyn, Sahli-Fadel Maya, Cate Lewis, François-Paul Blanc, M'Barka Bouaida, Salek Maoloud Lebaihi, Roman López Villicaña, José Dobovšek, Serge Loungou, Kei Nakagawa, Miquel Carrillo Giralt, Karl Addicks, Fala Boussola, Denis Ducarme, Mohammad Ziyad Al Jabari, Santiago Nsobeya Efuman Nchama, Franz Mekyna, Ahmed Mghizlat, Lorenzo Olarte, Washington Salazar Varela, Tamek Abderrahmane, Roberto Ramon Acevedo Quevedo, Javier Aspuru Oribe and Valentino Perin (see A/C.4/64/SR.5).

21. At its 9th meeting, on 14 October 2009, the Committee had before it a draft resolution entitled "Question of Western Sahara" (A/C.4/64/L.7), submitted by the Chairman (see A/C.4/64/SR.9).

22. At the same meeting, the Committee adopted draft resolution A/C.4/64/L.7 without a vote (see A/64/413, para. 22, draft resolution I).

23. After the adoption of the draft resolution, a statement in explanation of position was made by the representative of Sweden (on behalf of the States Members of the United Nations that are members of the European Union, the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and Armenia, Georgia, Iceland, Liechtenstein, Norway, the Republic of Moldova and Ukraine) (see A/C.4/64/SR.9).

24. At its 62nd plenary meeting, on 10 December 2009, the General Assembly adopted draft resolution I, entitled "Question of Western Sahara", recommended by the Fourth Committee (A/64/413, para. 22), without a vote, as resolution 64/101.

25. In that resolution, the General Assembly supported the process of negotiations initiated by Security Council resolution 1754 (2007) and further sustained by Council resolutions 1783 (2007), 1813 (2008) and 1871 (2009), with a view to achieving a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, and commended the efforts undertaken by the Secretary-General and his Personal Envoy in that respect. It welcomed the commitment of the parties to continue to show political will and work in an atmosphere propitious for dialogue, in order to enter into a more intensive phase of negotiations, in good faith and without preconditions, taking note of efforts and developments since 2006, thus ensuring implementation of Security Council resolutions 1754 (2007), 1783 (2007), 1813 (2008) and 1871 (2009) and the success of negotiations. It also welcomed the ongoing negotiations between the parties held on 18 and 19 June 2007, on 10 and 11 August 2007, from 7 to 9 January 2008 and from 16 to 18 March 2008 in the presence of the neighbouring countries under the auspices of the United Nations.

26. The General Assembly called upon the parties to cooperate with the International Committee of the Red Cross, and to abide by their obligations under international humanitarian law.

27. The General Assembly requested the Special Committee to continue to consider the situation in Western Sahara and to report thereon to the General Assembly at its sixty-fifth session, and invited the Secretary-General to submit to the General Assembly at its sixty-fifth session a report on the implementation of the resolution.



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I. General

1. American Samoa is a Non-Self-Governing Territory administered by the United States of America under the Department of the Interior, which has a representative resident on the ground.¹ The Territory is located in the South Pacific, approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands, namely, Tutuila, Aunuu, Ofu, Olosega and Ta'u (known as the Manu'a Islands) and Swains and Rose (two coral atolls), as well as several lesser islands. The total land area is approximately 200 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, the largest island, is where the capital, Pago Pago, and one of the deepest harbours of the South Pacific, are located. Tutuila Island constitutes 70 per cent of the Territory's total land area and is home to nearly 100 per cent of the population.

2. According to a federal source, in July 2009, the population of American Samoa was estimated to be 65,628, with a median age of 23.1 and an estimated sex ratio of 1.02 males per female. Approximately 40 per cent of the population was under the age of 15. The urban population made up about 92 per cent of the total population and the estimated net migration rate amounted to approximately -5.4 per thousand of the population. Approximately 91,000 American Samoans live outside the Territory in the United States of Alaska and Hawaii and in the continental United States.

3. Ethnically, the population is about 90 per cent Samoan/Polynesian. Congregationalist Protestant denominations represent the religion practised by 80 per cent of the people, and some 20 per cent are Roman Catholic. Most American Samoans are bilingual, speaking the native Samoan language and English.

II. Constitutional, legal and political issues

4. It is believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to discover these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States led to a period of instability. Deeds ceding these islands to the United States from the early 1900s were accepted by an Act of Congress on 20 February 1929. Pursuant to that Act, American Samoans were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. On 29 June 1951, Executive Order 10264 of the United States President

Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 c of the Charter of the United Nations.

¹ Secretary's Order 2657 of 29 August 1951 and Secretary's Order 3009, as amended, of 3 November 1977, set forth the extent and nature of the authority of the Government of American Samoa and the manner in which the authority is to be exercised, available from the Electronic Library of Interior Policies, United States Department of the Interior (<http://elips.doi.gov/elips/release/3421.html>).

transferred administrative responsibility for the Territory to the Department of the Interior.

5. American Samoa is an "unincorporated and unorganized" Territory under United States law. Not all provisions of the United States Constitution or of United States law apply. Residents of American Samoa are not United States citizens. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. Children born in the Territory to foreign parents become citizens of either the mother's or the father's country of origin, not United States nationals. American Samoans may not vote in general elections in the United States, but are permitted to participate in presidential primaries and caucuses.

6. The Constitution of American Samoa, adopted in 1960, was revised in 1967 and subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress. In 2008, a referendum that would have revised an aspect of the Constitution was narrowly defeated.

7. The Territory's Constitution provides for separate executive and legislative branches and an independent judiciary. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. All American Samoans over 18 years of age are eligible to vote. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the Fono, the American Samoa Legislature.

8. In November 2008, Governor Togiola T. A. Tulafano was re-elected, as was Lieutenant-Governor Faoa Ipulasi A. Sunia. Their terms of office will expire in November 2012, when the next elections are due to be held. As also previously reported, in September 2007, Lieutenant-Governor Sunia was taken into custody by the United States Federal Bureau of Investigation and later released, in connection with contracts related to the Territory's Department of Education. As also previously reported, pending conclusive legal action, Mr. Sunia, who entered a "not guilty" plea in federal court in Washington, D.C., continues to serve as Lieutenant-Governor.

9. The Fono is a bicameral legislature, comprised of an 18-member Senate, whose members are chosen by 14 tribal councils, and a 21-member House of Representatives, 20 of whom are elected by popular vote and one of whom is appointed as a non-voting delegate from Swains Island. Only a "matai", the traditional chief of an extended family, or "aiga", can become a senator. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided they are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

10. Since 1981, American Samoa has elected by direct vote a delegate to the United States House of Representatives for a two-year term. The delegate may vote in committees and on the floor except on final passage. In November 2008, the delegate, Congressman Eni F. H. Faleomavaega, was re-elected for an eleventh consecutive two-year term.

11. The judiciary system consists of the High Court, for which the Chief Justice and the Associate Justices are appointed by the United States Secretary of the Interior, and the local district and village courts, for which the judges are appointed by the Governor. The High Court is separated into Appellate, Trial, Land and Titles,

and Family, Drug and Alcohol divisions. The High Court has limited federal jurisdiction for certain issues. Other matters of federal law arising in American Samoa are adjudicated in the United States district courts, mainly the federal courts in Hawaii and Washington, D.C. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court to a federal district court. In its report of 27 June 2008, the United States federal Government Accountability Office found that there was "some legal uncertainty" about the current ability of federal judges to issue search warrants for property in American Samoa because it was outside of a federal judicial court. American Samoan laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

12. As previously reported, the Future Political Status Study Commission was established in 2006 under the Territory's Public Law 29-6, amended by Public Law 29-24 and Public Law 29-25. The Commission's final report, written in both English and Samoan, was submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the High Court on 31 December 2006. Copies of the final report were made available to the public in January 2007, including on the website of the territorial Government (<http://www.americansamoa.gov>). The ultimate decision on status is to be made by the people of American Samoa. Additional information on the report can be found in the working paper on American Samoa presented to the Committee in 2008 (A/AC.109/2008/3).

13. As previously reported, in his inaugural address on 9 January 2009, the re-elected Governor stated that in the area of governance, the following four years would be very important. The Territory had on hand the report and recommendations of the Future Political Status Study Commission, which would be laid before a constitutional convention. According to the administering Power, on 17 March 2009, the Governor executed Executive Order No.: 004-2009 establishing a Constitutional Review Office. On 20 December 2009, the Governor signed Public Law 30-31, which provided for the budget of the American Samoa Constitutional Convention. The Convention is now scheduled to be held in June 2010.²

III. Budget

14. According to the administering Power, the budget of the territorial Government for the fiscal year 2010, which started on 1 October 2009, is approximately \$335.9 million, as approved by the Fono. Revenues of the Government of American Samoa consist of federal support (approximately 60 per cent) and locally generated revenues (approximately 40 per cent).

IV. Economic conditions

A. General

15. According to the Governor's state of the Territory address on 11 January 2010, the year 2009 had been very challenging for American Samoa, especially in view of

² Information provided by the administering Power on 27 February 2010.

the Congressionally mandated minimum wage rise and the closure of an economic mainstay in the Territory for the past 50 years — the Samoa Packing cannery and the more than 2,000 jobs it had provided. Together with the other cannery, which, thus far, was still operating, it had accounted for approximately 80 per cent of all private sector employment. The full effects of the loss of Samoa Packing on the Territory's economy had not yet begun to be felt. Revenues in the last quarter of 2009 had exceeded expenditures by \$1.5 million. At least in the short term, projected losses due to the closure of Samoa Packing had been offset by other economic activity, owing mostly to the infusion of federal dollars as a result of the September 2009 disaster assistance.

16. The Governor reported that the remaining tuna processing and canning company in American Samoa had expressed uncertainty as to whether it would be able to remain competitive if it continued to operate in American Samoa. The people of American Samoa had signed a petition to repeal the mandated federal minimum wage and the Governor had delivered the petition to the White House in July 2009. Currently, the Governor was actively seeking investors to purchase and operate the abandoned tuna processing and canning facilities, and the Delegate to Congress for American Samoa was crafting legislation designed to rejuvenate the tuna processing and canning operations in American Samoa. The economic stimulus bill recently signed by the President included a provision requiring the Government Accountability Office to conduct studies of minimum wage increases in American Samoa. The first report was due by 15 April 2010.

17. American Samoa's largest trading partner is the United States, followed by New Zealand, Australia and Fiji, as well as Indonesia and India. As previously reported, American Samoa imports some 90 per cent of goods and products, including food and petroleum products, machine parts, building materials, textiles and clothing.

B. Agriculture and fisheries

18. As previously reported, almost 90 per cent of all farms in the Territory operate on a subsistence basis, and prospects for agricultural development continue to be limited owing to the small amount of level land suitable for cultivation. At the same time, farmers in American Samoa benefit from assistance provided by the Natural Resources Conservation Service of the United States Department of Agriculture and its Environmental Quality Incentives Programme.

19. In June 2009, American Samoa's Secretary of Samoan Affairs explored a proposal to restart village farming systems to help ensure adequate supply of local staples and vegetables that would help to provide alternative sources of income.

20. Information on the situation with regard to the fishing industry is contained in the previous section.

C. Tourism

21. According to the administering Power, approximately 7 per cent of the economy comprises a small tourist sector industry and a few businesses that sell exclusively to the local market. As reported in the media, in the first quarter of

2009, over 17,500 travellers arrived in the Territory and four cruise ships carried an additional 9,500 passengers and crew.

22. The local media also reported that a United States firm specializing in resort development with projects all over the world had been awarded a contract to prepare an "American Samoa Tourism Master Plan". Funding for the contract of more than \$400,000 came from the United States Department of the Interior's Office of Insular Affairs. The Plan will identify the economic sustainability of a resort destination in American Samoa.

D. Communications and transport

23. There are approximately 180 kilometres of public and primary paved roads and 235 kilometres of secondary village roads in American Samoa. The Federal Highway Administration Hawaii Federal-Aid Division has approved \$49.3 million in Emergency Relief funds for the Territory's roads that were damaged by the earthquake and the tsunami on 29 September 2009.

24. Pago Pago harbour is an all-weather deep-draught harbour, which is one of the best natural deep-water harbours in the South Pacific Ocean, and is of strategic importance to the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway.

25. There are four airports in the Territory, situated on the islands of Tutuila, Ofu, Olosega and Ta'u, respectively. Pago Pago International Airport is owned and operated by the territorial Government. The Territory's main airport is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Within the Territory, Inter-Island Airways flies regularly to the islands of Ofu, Olosega and Ta'u.

26. According to the local media, the Territory has three FM stations and three AM stations, serving approximately 57,000 radios. One Government-owned television station broadcasts over three channels to approximately 14,000 television sets. Internet access is provided by the American Samoa Telecommunications Authority, a semi-autonomous Government agency.

E. Water, sanitation system and utilities

27. The American Samoa Power Authority, which is Government-owned, provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. The Authority provides drinking water to 90 per cent of the Territory from wells, with the remaining part being serviced by outer-village systems. On a grant of \$1.4 million from the United States Environmental Protection Agency, the Authority has been working since 2008 on connecting the outlying villages of Fagali'i, Malota and Fagamalo to the public water system as well.

28. In 2009, according to reports in the media, the Governor announced further possible increases in the costs in shipping, fuel and electricity resulting from the closure of a cannery.

V. Social conditions

A. General

29. Known as “fa’asamoa”, the Samoan way of life is based on the notion of mutual respect and sharing among the “aiga” or extended families, each featuring a common allegiance to a matai, and influences every aspect of the Territory’s socio-economic fabric. The traditional communal system prevalent in American Samoa is considered to contribute to preserving the Territory’s social cohesion and promoting economic welfare.

30. As previously reported, since 2008, the Territory’s legislature has been working to further strengthen the use of the Samoan language for classroom instruction in public schools, in tandem with English. In March 2009, it was reported that the local American Samoa Department of Education would receive \$618,000 for its Samoan language programme for grades K-12.

B. Labour and immigration

31. Early in 2009, the local media reported that the territorial Government expected that approximately 2,000 cannery jobs would eventually disappear, along with related jobs in the private sector. In this regard, the Chamber of Commerce called for both the public and private sector to work on an expedited economic development plan. Moreover, according to the Governor’s 2010 address, under the National Emergency Grant, 1,451 temporary disaster jobs had been created, serving 48 government and non-profit agencies. Upon completion of the national emergency grant aid, follow-on funding has been identified for developing this workforce. More than 900 people are working today through National Emergency Grant assistance. The territorial Government hoped to be able to employ the rest of the 1,451 people that have applied for jobs.

32. On 25 May 2007, the United States President signed into law a provision that raised the American Samoa minimum wage by 50 cents for all industry classifications (Public Law 110-28), with an automatic increase, or escalator clauses, of 50 cents per hour every year until 2014. In 2008, hourly wages for Government employees were \$3.91; fisheries \$4.26; shipping and transportation \$5.09; retail and wholesaling, and warehousing \$4.10; and tourism and travel services \$4.48.

33. As previously reported, in January 2008, the United States Department of Labor released a report which showed that automatic increases would be harmful to the economy of the Territory. Subsequently, in February 2009, the United States Congress mandated the Government Accountability Office to report on the impact of past and future minimum wage increases.

34. American Samoa has its own immigration laws and entry conditions into the Territory by foreigners, which are not the same as those applicable for the United States. As previously reported, in 2003, a new Immigration Law of American Samoa came into force, giving the Attorney General, instead of a Government-appointed board, full authority over granting eligibility. That change allowed many individuals who had resided in the Territory for a long period to acquire permanent resident status. A report of the Department of Commerce indicates that in 2008 there were

approximately 38,000 immigrants in the Territory, out of a population estimated to be between approximately 64,800 and 69,000, depending on the source.

C. Education

35. Education in American Samoa is compulsory from 6 to 18 years of age. The educational system is broadly based on that of the United States. According to the American Samoan Department of Education, there are 24 early childhood education centres, 23 elementary schools, and 6 high schools in the Territory. The Department serves over 14,150 students in grades K-12, early childhood education and special education.

36. Based on media reports, in 2009 there were five school districts, each centred on a high school together with lower level elementary or "feeder schools". As previously reported, during 2008 the Department had 472 teaching personnel in elementary education, 191 teaching personnel in secondary education, 18 teaching personnel in vocational education, 202 teachers in special education, and 118 teaching personnel in early childhood education. American Samoa has a literacy rate of approximately 97 per cent.

37. The American Samoa Community College offers two-year degree courses in arts and sciences and certificate programmes of proficiency in vocational and clerical skills, business and nursing.

D. Public health

38. According to the Governor's 2010 address, in 2009, the territorial Government established Community Health Centres in the villages of Leone and Amouli. Services offered at these new centres include primary and prenatal care, well-baby clinic, family planning, oral health, nutrition education, behavioural health and Woman, Infants, and Children (WIC) services. The combined funding for these new centres is \$1.3 million. In addition, the Tafuna Family Health Center received \$1.2 million to fund capital construction, personnel and supplies for carrying out new functions, as well as to meet the increased demand for services.

39. According to the Central Intelligence Agency, the 2009 estimate for life expectancy in the Territory was approximately 73.72 years, 70.8 for males and 76.82 for females. Per 1,000 of the population, the annual birth rate was estimated at approximately 23.31/1,000 population, and the annual death rate at approximately 4.1/1,000 population. The fertility rate was estimated at 3.29 children per woman.

40. The main, semi-autonomous public hospital in the Territory has 150 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services in the Territory are available 24 hours a day. Dispensaries have been established in Ta'u and Ofu, providing services to the Manu'a Islands. In 2009, hospitals in Honolulu stopped accepting medical referrals from American Samoa's LBJ (Lyndon Baines Johnson) Hospital until a half million United States dollar debt was paid.

41. The dengue fever prevention and eradication campaign conducted by the Territory's government helped to contain a 2009 outbreak of dengue fever which had started the previous year. According to reports in the media, to combat the H1N1 flu, the United States Department of Health and Human Services has

allocated for American Samoa close to \$80,000 in grant funds for 2009 which includes approximately \$50,000 for public health emergency response grants and \$30,000 for hospital preparedness grants.

E. Crime and the judiciary system

42. Sexual abuse of minors is increasing every year in the Territory, with the vast majority of cases said to take place within families.³ According to reports in the media, on 12 May 2009, the Governor announced the establishment of the Sexual Offender Registration Notification Act Working Group to ensure compliance with the requirements of the Act and to provide counsel and input into strategic planning, development and implementation of American Samoa's Sex Offender Registry. The newly established Office of Territorial and International Criminal Intelligence and Drug Enforcement is expected to facilitate cooperation in this area with the South Pacific Chiefs of Police Organization and the United States Department of Justice.

43. Information on recent development in the judicial area can be found in working paper A/AC.109/2009/4.

VI. Environmental protection and disaster preparedness

44. The American Samoa Environmental Protection Agency, funded by the United States Environmental Protection Agency, is mandated to protect human health and to safeguard the natural environment: air, water and land.

45. According to a press release issued by the Office of the Congressman, on 1 June 2009, the United States Department of Energy committed \$28.8 million to American Samoa to help to build a clean energy economy through the American Recovery and Reinvestment Act of 2009 (Recovery Act), benefiting the following areas: weatherization, State Energy Program and Energy Efficiency Community Block Grants. The local media reported that American Samoa had embarked on a relationship with a private energy solutions company and the University of Hawaii Pacific Business Center Program, to pursue alternative energy, renewable energy, sustainable practices and environmentally friendly technologies, with a view to reducing dependence on carbon-based fuels.

46. According to the Governor's 2010 address, in 2009 the territorial Government continued its efforts at reducing non-point source pollutants through their Piggery Compliance Program and Lube Cube Waste Oil Collection Program. Through the piggery compliance program, it had succeeded in decreasing the number of illegal piggeries by nearly 20 per cent. As a result, American Samoa is more protected against leptospirosis, and is also decreasing harmful nutrient overloading by over 40,000 lbs. of nitrogen and 17,000 lbs. of phosphorus.

47. Through the Lube Cube Program, the Territory seeks to eliminate harmful waste oils from entering the Territory's water resources. In 2009, waste oil collection increased by 15 per cent, with a record 1,700 gallons of waste oil collected and removed from the Territory for proper disposal.

³ *Atlantic Free Press*, 4 July 2008.

48. In terms of disaster preparedness, American Samoa has been allocated \$1.85 million in federal grants from the United States Department of Homeland Security. According to reports in the media, American Samoa was awarded more than \$1 million in the new United States Department of Homeland Security Federal Emergency Management Agency funding. The grant funding was to help to prevent terrorism, reduce fraud, and improve the readability and accuracy of identification documents.

VII. Relations with international organizations and partners

49. American Samoa has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988. International labour conventions and recommendations are applicable to it. The Territory belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), for which it falls under the Regional Office for the Western Pacific and the Western Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies.

50. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme, the South Pacific Applied Geoscience Commission, the Secretariat of the Pacific Community and the Council of Pacific Arts. It also belongs to United States organizations, such as the National and Western Governors' Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

51. According to the administering Power, American Samoa, along with other United States territories, requested to be allowed to interact more and to become an observer at regional political forums in the Pacific and in the Caribbean, such as the Pacific Islands Forum and the Caribbean Community (CARICOM).

VIII. Future status of the Territory

A. Position of the territorial Government

52. Section II of the present working paper reflects recent developments in American Samoa concerning its future political status.

B. Position of the administering Power

53. In a letter dated 2 November 2006 addressed to Congressman Faleomavaega, the United States Assistant Secretary of State for Legislative Affairs set forth the position of the Government of the United States on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2009. In his letter, the Assistant Secretary indicated that the status of the Insular Areas

regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee. The letter also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. The letter further stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions, the federal Government did submit annual updates on United States Territories to the Special Committee as a demonstration of United States cooperation as an administering Power and to correct any errors in information that the Special Committee might have received from other sources.

C. Action by the General Assembly

54. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/64/23) and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/64/413). Section I of resolution 64/104 B concerns American Samoa. Under that section's operative paragraphs, the General Assembly welcomed the work of the territorial Government and legislature with regard to the recommendations made by the Future Political Status Study Commission, in preparation for a constitutional convention some time in 2009, addressing issues related to the future status of American Samoa and called upon the administering Power to assist the Territory by facilitating its work concerning the intention of holding a constitutional convention sometime in 2009, if requested. The Assembly stressed the importance of the invitation previously extended to the Special Committee by the Governor of American Samoa to send a visiting mission to the Territory, called upon the administering Power to facilitate such a mission if the territorial Government so desired, and requested the Chairperson of the Special Committee to take all the necessary steps to that end. The General Assembly requested the administering Power to assist the Territory by facilitating its work concerning a public awareness programme recommended by the Future Political Status Study Commission in its 2007 report, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, called upon the relevant United Nations organizations to provide assistance to the Territory, if requested. The Assembly welcomed the efforts made by the territorial Government to address employment and cost-of-living issues in various economic sectors.



General Assembly

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United States Virgin Islands

Working paper prepared by the Secretariat

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I. General

1. The United States Virgin Islands is a Non-Self-Governing Territory administered by the United States of America. The Territory is located in the eastern part of the Caribbean Sea, 1,075 miles south-east of Miami and 60 miles east of Puerto Rico. The total land area is about 352 square kilometres. The Territory is made up of three main islands, St. Croix, St. John and St. Thomas, and one small island, Water Island. The capital, Charlotte Amalie, is located on St. Thomas. The Islands were in Danish possession from 1754 to 1917, when their purchase for \$25 million by the United States of America became effective. United States citizenship was granted to Virgin Islanders under Acts of Congress on 25 February 1927 and 28 June 1932 through collective naturalization. The United States Office of Insular Affairs carries out the responsibilities of the Secretary of the Interior for the Territory.

2. According to territorial and federal sources, the population of the Territory for 2009 was estimated to be some 110,000, with 4,500 individuals living in St. John and the rest almost equally divided between St. Thomas and St. Croix, with a very slightly negative growth rate. As previously reported, the composition of the Territory's population is estimated to be a little more than 75 per cent black and 13 per cent white, with the remainder being of mixed, Asian and other origin. According to a recent estimate, 95 per cent of the population live in an urban setting.

II. Constitutional, political and legal issues

3. The United States Virgin Islands is an organized, unincorporated Territory of the United States. Under the Organic Act of the Virgin Islands (1936), its revision in 1954, and subsequent amendments to the Revised Organic Act of 1954, the Territory has a Legislature, also known as the Senate, which is a unicameral body comprising 15 senators elected for a two-year term by popular vote. Executive power is vested in a Governor, who has been elected on the same ticket as the Lieutenant-Governor since 1970 by popular vote for a four-year term. The Governor is limited to two consecutive terms, but can be elected again after one full term out of office. The Governor appoints, with the advice and consent of the Legislature, the heads of the executive departments and has the power to approve or veto legislation and issue executive orders.

4. As previously reported, in the November 2006 election for the position of Governor, John deJongh of the Democratic Party won a run-off against the Independent Party candidate with 57 per cent of the vote. The Territory's last legislative elections, held on 4 November 2008, resulted in the election of 15 senators, 10 Democrats, 2 members of the Independent Citizens' Movement and 3 non-party affiliates. The next legislative elections will be held in November 2010. The Territory elects a delegate to the United States House of Representatives, who is able to vote in committees. As previously reported, Democratic Candidate Donna M. Christensen ran unopposed in the 2008 election and was re-elected to a seventh two-year term as the United States Virgin Islands Delegate to the United States Congress.

Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations.

5. The Territory's judicial system has a District Court, a Superior Court and a Supreme Court, which became operational in January 2007. The Supreme Court of the Virgin Islands is the appellate court of the Virgin Islands that hears appeals decided by the Islands Superior Court. The establishment of the Supreme Court eliminates federal judicial involvement in purely local legal matters.

6. Since the Organic Act of the Virgin Islands was revised by the administering Power in 1954, there have been four attempts to replace it with a local constitution approved by the people of the Territory, which would organize the internal mechanisms of government. Although the United States Congress authorized the adoption of a local constitution in 1976 under United States Public Law 94-584, none of the four attempts made were successful.

7. As previously reported, after a Fifth Constitutional Convention was signed into law by the then Governor in 2004, an election for 30 delegates to form the Constitutional Convention took place in June 2007. The Fifth Constitutional Convention opened on 29 October 2007. On 26 May 2009, the Constitutional Convention adopted a proposed Constitution of the United States Virgin Islands by a two-thirds vote. The text of the proposed Constitution was submitted to the Governor on 31 May 2009, and made widely available, including to the Legislature and on the Internet. In a preamble and 19 articles, the 27-page text of the proposed Constitution includes provisions on a bill of rights; principles, branches and subdivisions of government; Virgin Islanders; elections; education; youth; taxation, finance and commerce; economic development; public health, safety and welfare; culture; protection of the environment; referendums and recalls; and creation of a Political Status Advisory Commission.

8. With regard to the creation of a Political Status Advisory Commission, the proposed Constitution states in article XVII that this should be done within two years of the adoption of the Constitution, with a term of office of three years. Moreover, after a year of public education on the status and federal relations options of (a) statehood, (b) free association, and (c) independence, a special election would be held. The special election on status would be reserved for vote by "ancestral native" and "native" Virgin Islanders, as defined in article III of the proposed Constitution, whether residing within or outside the Territory.

9. Article III of the proposed Constitution states that an "ancestral native" Virgin Islander is a person or a descendant of such a person who was born or lived in the Territory on or before 28 June 1932 and was not a citizen of any other country; a "native" Virgin Islander is a person or descendant born in the Territory after 28 June 1932.

10. Certain provisions of the proposed Constitution have been a source of contention among delegates, as reflected in media reports. For instance, under article VI, only "ancestral or native" Virgin Islanders are qualified to run for Governor and Lieutenant-Governor. Also, under article XI, "ancestral native" Virgin Islanders would not have to pay certain property taxes. Moreover, in a letter made public, the Governor articulated that the most general and generous reading of the draft Constitution showed it to be inconsistent with basic tenets of equal protection and fairness.

11. Later in the year, speaking before the 3rd meeting of the Fourth Committee of the General Assembly, at its sixty-fourth session, held on 6 October 2009 (see

A/C.4/64/SR.3, paras. 10-12), Gerard Luz Amwur James II, President of the Fifth Constitutional Convention of the United States Virgin Islands, said that the proposed Constitution had been duly submitted to the elected Governor, who was to have forwarded it to the administering Power for review, with the authority to modify or amend it, in whole or in part, as specified by law. The President went on to inform the Fourth Committee that the Governor had taken the "unilateral" decision not to transmit the proposed Constitution to the administering Power based on the contention that some of the provisions might not be consistent with how the United States Constitution was applied to the Territory. He indicated that officers of the Fifth Constitutional Convention had filed a suit in the Territory's Superior Court to mandate the transfer of the proposed Constitution to the administering Power, and awaited its decision.

12. Meanwhile, at the United Nations Caribbean regional seminar on decolonization, held in St. Kitts and Nevis in May 2009, Tregenza Roach of the University of the Virgin Islands, *inter alia*, spoke about the Territory's attempt to adopt a local constitution with the aim of increasing local self-government, although many in the Territory had argued that the international political status issue should be determined prior to a decision on the proposed Constitution.

13. As previously reported, regarding the Territory's international political status, the first and only referendum on a range of political status options had been conducted in 1993. However, only 27 per cent of the electorate voted and, of those, 80.3 per cent voted to retain the current status. The result was considered invalid since less than 50 per cent of the electorate had voted.

14. After a delay of almost half a year, which involved a ruling of the Territory's Superior Court, on 31 December 2009 the Governor forwarded the draft constitution to the President of the United States of America. Under Public Law 94-584, the President has 60 days to transmit the text with comments to Congress. Congress would then have a further 60 days to review the document, which would be deemed to have been approved by the Congress, unless it was approved or modified prior to such time. As so approved or modified, the draft constitution would be submitted to the Territory's qualified voters for a referendum.

15. On 26 February 2010, the President of the United States submitted the proposed Constitution to Congress, endorsing the conclusions reached by the Department of Justice that several features of the proposed text warranted analysis and comment, including the absence of an express recognition of United States sovereignty and the supremacy of federal law; provisions for a special election on the territorial status of the United States Virgin Islands; and provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry. Congress scheduled hearings on the proposed Constitution on 17 March 2010 in Washington, D.C.

III. Budget

16. According to the administering Power, the Territory's fiscal year began on 1 October 2009. The Governor submitted the Financial Year 2010 Budget to the 28th Legislature on 24 June 2009, at a projected funding level of \$854.4 million available for appropriation from the General Fund operating budget. The Governor cautioned the Legislature that the Territory was faced with difficult choices as a government,

great challenges as a community, and real hardships, as the Virgin Islands confronted the grim reality of the global recession.¹

17. In his State of the Territory address, delivered on 25 January 2010, the Governor stated that the global economic crisis had a devastating impact on government funds, which were running a monthly deficit of \$25 million. Tax revenues had fallen by over 30 per cent. This meant that the territorial Government had \$234 million less to spend than it had the previous year, which amounted to almost half of the cost of salaries and benefits of the territorial Government's approximately 12,000 (2008) workers. At the same time, the territorial Government had applied for funding for over \$400 million-worth of projects in stimulus awards under the United States 2009 American Recovery and Reinvestment Act, and received over \$157 million, which together with other measures such as borrowing would support the General Fund.

18. According to the administering Power, the passage of the American Recovery and Reinvestment Act of 2009 provided the Virgin Islands with approximately \$280 million formula-derived funding to enhance existing programmes and to support the expansion of services and initiatives in the areas of energy efficiency, education, health care, labour and law enforcement.

19. As previously reported, legislation which repealed a 1936 federal law limiting the authority of the territorial Government to administer its own property tax system became law in 2007 as did a property reform law in March the following year. According to the administering Power, the Territory has moved towards completing other needed steps, but has not yet had an original 2003 court injunction on tax matters lifted; the territorial Government has not collected property taxes since 2008.

IV. Economic conditions

A. General

20. The mainstay of the Virgin Islands economy are the tourism and manufacturing sectors. Tourism, concentrated on St. Thomas, is the largest revenue generator and main growth element in the economy, contributing approximately 80 per cent to the gross domestic product (GDP) of the Territory. The manufacturing sector, located primarily on St. Croix, contributes approximately 12 per cent to the GDP. It consists largely of petroleum refining and rum distilling, and includes smaller textiles, electronics, pharmaceuticals, and watch-assembly operations. According to the United States Virgin Island Bureau of Economic Research, using the latest figures available, the GDP of the Territory was approximately \$4.1 billion in 2006, and the per capita personal income \$20,381 in 2008.

21. The United States Virgin Islands Economic Development Authority is a semi-autonomous government instrumentality responsible for the promotion and enhancement of economic development in the Territory. It has five major components: Economic Development Commission, Government Development Bank, Industrial Park Development Corporation, Small Business Development Agency, and Enterprise Zone programme.

¹ Information provided by the administering Power on 27 February 2010.

22. Under the direction of the Economic Development Authority, the basic purposes and objectives of the United States Virgin Islands Economic Development Commission are to promote the growth, development and diversification of the economy; to benefit the people of the Territory by discovering and developing to the fullest possible extent the human and economic resources available therein; to establish and preserve opportunities for gainful employment for residents; to promote capital formation for industrial development; to develop the educational system of the Territory; and to preserve the environment and natural resources of the Territory. As previously reported, the Commission is empowered to grant tax reductions such as full exemption from property taxes and 90 per cent of local income taxes and dividends.

B. Tourism

23. Tourism is the primary economic sector in the United States Virgin Islands, with, according to federal sources, an estimated GDP contribution of approximately 80 per cent. St. Thomas and St. John are the main tourist centres. Two thirds of St. John is covered by a national park with developed underwater and eco-tourism industries. The Territory hosted 2.4 million visitors in 2008, of which a large majority were cruise tourists.

24. According to the administering Power, the industry has been hurt by the global economic crisis, but the Virgin Islands Bureau of Economic Research released tourism indicators in January 2010 for September and October 2009 that showed an increase in arrivals to the Territory; for instance, visitor arrivals grew by 4.4 per cent overall in September 2009 compared with September 2008, and in October 25.7 per cent over the previous year.

25. According to the Governor's 2010 State of the Territory address, airlift at the two major airports of the Territory had grown by 25 and 34 per cent during 2009. During the 2009 season, the territorial Government reported a little over 1,582,000 cruise passenger visits, constituting a decline of almost 10 per cent compared to 2008. To promote tourism in the United States Virgin Islands, in 2009 the Territory's Department of Tourism implemented a dedicated small hotels marketing plan benefiting hotels with 50 rooms or less, and unveiled a new advertising campaign.

C. Manufacturing, construction and financial services

26. The manufacturing sector, comprised mostly of petroleum and rum, contributes significantly to the island economy. According to territorial Government statistics, refined petroleum exports in 2008, the latest year for which figures were available, were some \$14 billion. The Territory features one of the largest and most modern refineries in the world, a joint venture between subsidiaries of a private United States company and the Venezuelan State oil company Petroleos de Venezuela on the south shore of St. Croix. Towards the end of 2009, the refinery ran its crude units at about 77 per cent of capacity, off sharply from 91 per cent the previous year, reflecting poor market conditions and the need for unscheduled repairs.

27. The rum industry is the second pillar of the manufacturing sector of the Territory. Based on the most recent territorial Government statistics available, the

Territory's rum exports totalled about \$31.4 billion in 2008. According to the administering Power, construction of the new private rum distillery under an agreement with the territorial Government signed into law in 2008, started in August 2009 and is on schedule. The distillery is expected to be operational by November 2010 and to employ between 60 and 70 people on St. Croix once it is operational. In 2009, the Legislature ratified a contract agreement for a 30-year public-private partnership, strengthening the relationship between the Territory and another major rum producer. The agreement utilizes the rum excise tax "cover-over" programme, an economic development tool which returns excise taxes on locally produced rum sold in the United States.

28. The Territory's value of construction permits declined markedly by about 22 per cent during 2009, as compared to 2008. According to the administering Power, jobs in the construction sector remained weak during the period under review. At the same time, according to the Governor's 2010 State of the Territory address, three major hotel projects on St. Croix had obtained governmental approvals to proceed to construction, and two resort projects on St. Thomas were set to move ahead. Also, through approval of capital project initiatives, in 2009 the territorial Government had taken steps to improve various recreational facilities, and design and construct the new St. Thomas Library and Record Center, and the Department of Justice Toro Building, as well as the LaReine, Frenchtown and Frederiksted fish markets.

29. The Governor further reported that during 2009, the United States Department of Housing and Urban Development had returned 35 acres of property in Estate Bordeaux on St. John to the territorial Government, and progress had been made towards repairing and rehabilitating 500 of the 900 vacant housing units.

30. According to territorial and federal sources, the international financial and business services sector is a small but growing component of the GDP of the Territory. During 2008/2009, it employed about 2,500 persons, by and large maintaining the number of jobs in the sector when compared to previous years.

D. Transportation and utilities

31. In 2008/09, the United States Virgin Islands had approximately 1,250 kilometres of roadways and some 65,000 registered vehicles. The Territory has one of the best natural deepwater harbours in the Caribbean and is strategically located along the Anegada Passage — a key route for ships bound for the Panama Canal. The Territory has five major docking facilities, which can accommodate cruise ships and some naval vessels. Three of the docks are on St. Croix, namely South Shore, Gallows Bay and Frederiksted. The other two are on St. Thomas, namely, the facilities operated in Crown Bay by the Virgin Islands Port Authority, a semi-autonomous government agency, and the Islands-owned West Indian Company.

32. The Port Authority operates two international airports, Cyril E. King Airport on St. Thomas and Henry E. Rohlsen Airport on St. Croix. According to the Governor, speaking to the media, the United States Department of Transportation and Federal Aviation Administration had awarded the Port Authority of the Territory over \$14 million for the ongoing rehabilitation of the runway of the Cyril E. King Airport. The rehabilitation is expected to address long-standing concerns about the condition of the runway and its lighting system.

33. The Virgin Islands Water and Power Authority (WAPA) is an autonomous governmental entity of the territorial Government that produces and distributes electricity and potable water to approximately 54,000 electrical and 12,000 potable water customers. The Virgin Islands Water and Power Authority also installs and maintains street lights in the Territory. It is considered a not-for-profit public corporation that contributes directly to the budget of the Virgin Islands Government through an annual payment in lieu of taxes to the Virgin Islands Treasury. The Authority was created in Act 1248 on 13 August 1964 by the Fifth Legislature of the Virgin Islands. Rates for electrical, potable water and street light services are regulated by the Public Services Commission.

34. Electricity is thermally generated using imported fuels, as agreement on the construction of two biomass power plants was finalized in 2009. According to the Governor, state-of-the-art waste-to-energy facilities would be constructed on both St. Croix and St. Thomas to process much of the Territory's garbage into refuse-derived fuel. He also said that, through the combined and coordinated efforts of the Virgin Islands Water and Power Authority and the Waste Management Authority, after 30 years, resolution of the multiple issues surrounding the closure of landfills was near.

35. For its part, the Energy Office, under the Office of the Governor, developed in 2009 a strategy plan of 31 initiatives to guide the execution of energy policies in the United States Virgin Islands and has been at the forefront of leveraging federal stimulus dollars to support energy efficiency and renewable energy goals. These funds are expected to allow for the expansion of the solar water-heating industry in the Territory, the harnessing of landfill gases as a source of energy, an increase in energy efficiency consumer rebates, and numerous other renewable energy projects.

36. As reported in the media, the Energy Office received in 2009 several American Recovery and Reinvestment Act stimulus grants to promote conservation and renewable energy in the Territory — \$20.6 million in State Energy Programme Funds, a \$9.6 million Energy Efficiency Conservation Block Grant, and \$1.4 million for weatherization assistance, as well as a \$104,000 State Energy Efficiency Appliance Rebate grant. The money was being awarded in stages as the Energy Office meets federal performance goals.

37. As previously reported, owing to limited freshwater supplies, salt water is used extensively for non-domestic purposes, including fire fighting and sewage. A desalination plant on St. Thomas produces approximately 4.5 million gallons per day. Wells, particularly on St. Croix, supply the remainder of the freshwater necessary. Owing to the high cost of water, average daily consumption is about 50 gallons per person per day, about one third the United States average.

38. In terms of communications, during 2008/09, there were approximately 59,000 telephones, 8,700 Internet hosts (a computer connected directly to the Internet), and a number of radio and television broadcast stations.

E. Agriculture and fisheries

39. Historically, sugar cane, and to a lesser extent cotton, were the main revenue sources for the Territory's economy. Currently, the agricultural sector is very small and comprises mainly fruit and vegetable cultivation, and cattle-raising. According

to a federal source, agriculture in the United States Virgin Islands accounts for about 1 per cent of GDP and employment.

40. According to the Governor's 2010 State of the Territory address, the Territory's Department of Agriculture continued its work in 2009 to increase the quantity and diversity of local food production. In 2009 it introduced new programmes and initiatives to increase water storage, to support home grown food production and to youth agricultural training. The Department also directly supported farmers by assisting them with focused crop selection and livestock usage and providing access to proper business planning and financial resources.

41. With regard to fisheries, the territorial Government supported initiatives at the Caribbean Fisheries Management Council, with the National Marine Fisheries Service, and at the Congressional level to ensure that data collection was accurate, and that no unreasonable catch limits were placed on the Territory's fishermen.

V. Social conditions

A. General

42. According to the Governor's 2010 State of the Territory address, the Territory's Department of Labour cushioned the impact of the global recession in 2009 by issuing unemployment insurance checks and providing training to over 4,000 individuals, including green technology training, apprenticeships programmes in construction, and a series of programmes and services to retrain workers in the tourism industry. In addition, the Department placed over a thousand young Virgin Islanders in jobs during the summer of 2009.

43. Moreover, the Territory's Department of Human Services secured federal stimulus funds to increase monthly food stamp benefits by 14 per cent for each recipient. The number of recipients had grown by 4,500, or nearly one third. To support those in the Territory most in need, the territorial Government had reconstituted the Developmental Disabilities Council, activated the Mental Health Planning and Advisory Council, and, through the Virgin Islands Interagency Coalition on Homelessness, identified funding to build shelter for the homeless.

B. Labour

44. According to information published by the territorial Government, average annual employment in 2009 reached about 48,282 jobs, constituting a decline of some 2.8 per cent compared to 2008, and unemployment stood at approximately 7.6 per cent, with an increase of almost 2 per cent compared to 2008.

45. The Virgin Islands Department of Labor receives its authority pursuant to Titles 3, 24, 27 and 29 of the Virgin Islands Code; the Workforce Investment Act of 1998; the Occupational Safety and Health Administration Act of 1970; and other federal laws which require the development of administrative structures that govern and enforce fair labour standards and the protection of the people of the United States Virgin Islands from any threat to health, morals, and general welfare. The mission of the Virgin Islands Department of Labor is to administer a system of effective programmes and services designed to develop, protect and maintain a

viable workforce. According to the administering Power, in 2009, the Department and the Virgin Islands Energy Office partnered to create an innovative 14-week programme offering training to economically disadvantaged residents by preparing them for technical careers in renewable energy. Students are trained to assemble and install various types of solar water-heating systems.

46. For their part, as previously reported, employers in the Territory must follow federal and territorial labour laws, such as those regulating minimum wages, occupational health and safety standards and payment of social security tax and unemployment insurance.

C. Education

47. Education in the United States Virgin Islands is compulsory and free for all children between five-and-one-half and 16 years of age. The Territory's Department of Education administers approximately 40 schools. The University of the Virgin Islands has campuses on St. Thomas and St. Croix, teaching some 2,500 full- and part-time students in a variety of fields, such as education, business and public administration, as well as marine and environmental science, with over 300 graduates per year.

48. A federal source estimates the Territory's literacy rate in 2009 to be in the region of 95 per cent. According to reports in the media, education officials indicated that the Territory had a dropout rate for grades 7 to 12 of approximately 6 per cent during the 2007-2008 school year. Of the total number of students who dropped out of school, 65 per cent were between the ages of 16 and 18; 29 per cent of dropouts were 19 years old or older; and 5 per cent were 13 to 15 years old.

49. According to the Governor's 2010 State of the Territory address, the territorial Government continues to invest capital in school projects across the Territory; initiated a survey of students in special education; and hired the Government's first Americans with Disabilities Act Coordinator. Efforts were made in early 2010 to address the Territory's student dropout rate. According to the administering Power, as preparing quality workers for the new economy remains a challenge, the Department of Education has invested in career and technical programmes that will provide career pathways to jobs in innovative economic sectors identified by the Territory's Workforce Investment Board, which was established in 2008.

50. Outside the public sector, in May 2009, a small private school on St. Croix dedicated to children with learning disabilities gained full accreditation as a junior high and high school by Middle States Association of Colleges and Schools, a voluntary non-governmental membership association that defines, maintains, and promotes educational excellence across institutions, including in the middle States region of the United States.

D. Public health

51. The life expectancy of the Territory's total population is about 82 for women and 76 for men. As previously reported, about 50 per cent of all United States Virgin Islands residents are without health insurance. Unlike in the United States, Medicaid (the federal- and state-funded health-care programme for low-income individuals

and families) is not an entitlement programme in the Territory, which means that federal funding is “capped”. In 2009, the Governor urged United States senators to eliminate the Medicaid cap as an essential precondition to the development of full-fledged Medicaid programmes. In his 2010 State of the Territory address, the Governor stated that the Territory had secured federal funds to develop a modern Medicaid management information system.

52. In a press release issued by her Congressional office on 30 October 2009 on the occasion of the signing of the United States HIV/AIDS Treatment Extension Act, the United States Virgin Islands Delegate to Congress said that the four-year reauthorization was important because it supported states and territories with HIV/AIDS-related programmes. According to media reports, in fiscal year 2008/2009, the United States Virgin Islands received \$1.14 million under the Act’s Part B funds, which included funding to support the AIDS drug assistance programme, as well as a grant that can also be used to fund direct services to patients with HIV.

53. As previously reported, the Virgin Islands Cardiac Center at the Juan F. Luis Hospital in St. Croix opened in 2008. The Territory’s first open-heart surgery was successfully performed at the Center in January 2010.

E. Crime and crime prevention

54. In response to what appeared to be escalating drug-related shootings and other violent crimes in the Territory, in the first quarter of 2009 the Governor issued a statement calling on all Virgin Islanders to increase their participation and cooperation in combating violent crimes. According to the administering Power, later in the year, a new digital emergency “911” system became operational.

55. As reflected in the 2010 State of the Territory address, during 2009, there were 54 homicides, with 51 involving guns. Most of these cases involved individuals who had previously been arrested, or a person of interest to the police, or a person who had already been involved in some manner with the justice system during their often brief lives. In terms of prevention, the territorial Government had added more security cameras throughout the Territory, secured federal funds to improve forensic and investigative capabilities, strengthened security at schools, and taken steps to expand and improve the prosecutorial capacity of the Department of Justice. Moreover, the territorial Government’s Police Department had appointed a Tactical Anti-Gang Coordinator to implement an anti-gang initiative.

VI. Environmental protection and disaster preparedness

56. In 2009, the Governor signed a new energy bill passed by the Legislature to increase awareness and use of renewable energy alternatives for both the public and private sectors, as the Virgin Islands Water and Power Authority pursued its efforts to cut down on oil consumption, referred to above, with the help of two privately owned biomass energy plants that convert waste to energy.

57. Moreover, according to the Governor’s 2010 State of the Territory address, the territorial Government achieved in 2009 a number of its environmental policy goals related to the aforementioned refinery’s commitment to spend in excess of half a billion dollars to upgrade operations to clean up air emissions over the next six to

eight years; the Territory's principal rum producer's efforts to develop new wastewater treatment facilities and distillation upgrades; and the signing of a cooperative management agreement to facilitate the development of the marine research and education centre at Salt River Bay under the auspices of the Joint Institute of Caribbean Marine Studies and the University of the Virgin Islands.

58. An international partnership for Energy Development in Island Nations between Iceland, New Zealand and the United States to further the use of energy-efficient and renewable energy technologies in island nations and territories announced in April 2009 that the United States Virgin Islands was selected to be the United States pilot project participant. The pilot project will focus on achieving specific and measurable clean energy targets by developing indigenous renewable energy resources and improving energy efficiency.

59. The United States Virgin Islands periodically faces hurricanes and flooding, in addition to being located within an earthquake-risk zone. The Federal Emergency Management Agency provides programmes of mitigation, preparedness, response and recovery in the Territory through the Virgin Islands Territorial Emergency Management Agency, since 2009 operating as a stand-alone agency in accordance with a reorganization plan approved by the Legislature.

60. According to the Governor's 2010 State of the Territory address, the Virgin Islands Territorial Emergency Management Agency has made great progress as a stand-alone agency, including by putting online a modern "911" emergency communication system, staffed by well-trained emergency response professionals. With the development of the communications centre, the facility would function as the first federally certified fusion centre in the Caribbean, and was expected to be at the forefront of emergency management and homeland security in the region.

VII. Military issues

61. Information disseminated by the United States Department of Homeland Security during 2009 indicated that the United States Coast Guard at St. Thomas comprised about one dozen active duty officers and crew who performed marine safety and homeland security-related operational functions.

62. According to the Governor's 2010 State of the Territory address, the territorial Government has begun the construction of a new National Guard Regional Training Facility and a Joint Force Headquarters, and has gained Department of Defense approval to build out the Air National Guard to expand the Territory's security involvement in the Caribbean. Additionally, in line with the Territory's historic and social connections in the region, and its recent acceptance as an observer at the Organization of Eastern Caribbean States, the National Guard has initiated the process of serving as the initial point of contact with the Regional Security System of the Eastern Caribbean.

VIII. Relations with international organizations and partners

63. The United States Virgin Islands is an associate member of the Economic Commission for Latin America and the Caribbean (ECLAC). The Territory has observer status with the Alliance of Small Island States, which serves as a platform

to promote action on environmental issues, including climate change. According to information provided by the administering Power, the United States Virgin Islands received acceptance as territorial Government with observer status at the Organization of Eastern Caribbean States in the last quarter of 2009.

IX. Future status of the Territory

A. Position of the territorial Government

64. Developments regarding discussions on the future status of the United States Virgin Islands are reflected in section II above.

B. Position of the administering Power

65. Most recently, in a letter dated 2 November 2006 addressed to the American Samoa Delegate to the United States Congress, the Assistant Secretary of State for Legislative Affairs elaborated the position of the United States Government on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2009. In his letter, as previously reported, the Assistant Secretary indicated that the status of the Insular Areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee of 24. The letter also noted that the Special Committee of 24 had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. The letter further stated that at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social, and educational conditions, the federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee of 24 might have received from other sources.

C. Action taken by the General Assembly

66. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee transmitted to the General Assembly² and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/64/413). Section XI of resolution 64/104 B concerns the United States Virgin Islands. Under that section's operative paragraphs, the General Assembly:

"1. *Welcomes* the establishment of the Constitutional Convention in 2007, and requests the administering Power to assist the territorial Government in achieving its political, economic and social goals, in particular the successful conclusion of the ongoing internal Constitutional Convention exercise;

² *Official Records of the General Assembly, Sixty-fourth session, Supplement No. 23 (A/64/23).*

2. *Requests* the administering Power to facilitate the process for approval of the territorial draft constitution in the United States Congress, once agreed upon by the territorial Government;

3. *Also requests* the administering Power to assist the Territory by facilitating its work concerning a public education programme, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

4. *Reiterates its call* for the inclusion of the Territory in regional programmes of the United Nations Development Programme, consistent with the participation of other Non-Self-Governing Territories.”



General Assembly

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Guam

Working paper prepared by the Secretariat

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I. General

1. Guam is a Non-Self-Governing Territory administered by the United States of America. It is the southernmost and largest of the Mariana Islands in the Pacific Ocean, situated about 2,200 kilometres south of Tokyo and 6,000 kilometres west-south-west of Hawaii. The Territory consists of a single island of approximately 540 square kilometres and comprises two distinct geological areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbor is one of the largest deep-water ports in the Pacific. The capital city of Guam is Hagåtña, also known as Agaña.

2. When the first Spanish missionaries came to Guam late in the seventeenth century, it was inhabited only by the indigenous Chamorro people, who are believed to be of Malayo-Polynesian descent. As previously reported, the Chamorros comprise just over one third of the population and play an active role in the political and social life of the island, which has evolved into a multi-ethnic society. According to the United States Census Bureau International Data Base, Guam's population in 2009 was estimated at 178,000. It is expected that, with the upcoming military build-up (see para. 16 below), Guam's population will continue to grow, mostly through immigration. As previously reported, in the 2000 census results, the ethnic composition of the population was shown as 37.1 per cent Chamorro, 26.3 per cent Filipino, 11.3 per cent other Pacific islander, 6.9 per cent white, 6.3 per cent other Asian, 2.3 per cent other ethnic origin and 9.8 per cent mixed. English and Chamorro are the official languages. The majority of the population (85 per cent) is Roman Catholic, with other Christian denominations also represented.

II. Constitutional, legal and political issues

3. Guam was administered by the United States Department of the Navy until 1950, when the United States Congress enacted the Organic Act of Guam, which established institutions of local Government and made Guam an "organized" Territory. Since then, the Territory has been administered by the Department of the Interior. Guam is an "unincorporated" Territory, since not all provisions of the United States Constitution apply to the island. According to United States law, Guam, as an unincorporated Territory, is a possession of the United States but not part of the United States.

4. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches. Universal suffrage with respect to elections in Guam applies to United States citizens who are legally resident in Guam and 18 years of age or older. All persons born in Guam and subject to the jurisdiction of the United States are citizens of the United States. The United States Constitution does not permit Guam to appoint electors of the President and Vice-President of the United States. The people of Guam elect a Governor, who serves a four-year term. The current Governor was re-elected in 2006. He is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the Legislature, make his views known to that body and veto legislation.

5. The people also elect 15 senators, who serve two-year terms in the unicameral Legislature. The Legislature may override the Governor's veto. Under the 1950 Organic Act, the United States Congress reserves the authority to annul any law enacted by the Guam Legislature. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In the November 2008 legislative elections, Democrats won 10 seats compared with the Republicans' five.

6. Since 1972, Guam has had one delegate to the United States House of Representatives. As previously reported, the delegate, who serves a two-year term, may vote in committee and, since January 2007, on floor amendments but not on the final approval of bills. In the November 2008 elections, Madeleine Bordallo, a Democrat, ran unopposed. She was sworn in on 7 January 2009 for her fourth term as Guam's delegate to Congress.

7. The judicial system in Guam comprises both local and federal components. The local judicial system is made up of a Superior Court and a Supreme Court, which are led by judges appointed by the Governor and confirmed by the Legislature. Local judges are subject to confirmation by the voters every six years. At the federal level, a District Court judge, appointed by the President of the United States, is the head of the United States District Court of Guam. In 1998, Congress adopted an amendment to the Organic Act of Guam allowing the Guam Legislature to elect its own Attorney-General for a four-year term. The Attorney-General is the chief legal officer of the Government of Guam and is empowered with prosecutorial authority.

8. A further amendment to the Organic Act, which established the judiciary of Guam as an independent branch of Government, became law in 2004. As previously reported, the law confirmed the appellate jurisdiction and administrative authority of the Supreme Court of Guam over all inferior courts in the Territory, thereby effectively establishing a unified local judiciary.

9. Periodically, there have been moves in Guam to change the island's political status. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but also to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of five to one, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted. Another referendum took place in 1982, with 73 per cent of voters opting to pursue commonwealth status with the United States.

10. The Commission on Self-Determination, established in 1984, completed a draft Commonwealth Act in 1986, which, after a public education campaign, was submitted for an article-by-article vote on 8 August 1987 (see A/AC.109/1992, paras. 19 to 37). Voters approved the core proposals, but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of those outstanding provisions were approved after having been amended and rewritten. A summary of the main points in the draft Commonwealth Act is contained in the 2001 working paper (A/AC.109/2001/4).

11. Nevertheless, subsequent discussions from 1989 to 1997 between the Commission and the Government of the United States on a commonwealth agreement did not reach a resolution. In 1997, Guam Public Law 23-147 established the Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination, to address an important but controversial issue within the Chamorro population. The Commission, in concert with a process of registration of eligible voters organized by the Guam Election Commission, was to oversee the conduct of a vote with regard to the status preferences of the Chamorro people (independence, integration or free association), in accordance with international standards.

12. As previously reported, in 2000 the Guam Legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite, in which it was expected that the Territory's indigenous people would be asked to choose between statehood, independence and free association with the United States. The plebiscite would have been non-binding but would have set the course for any future discussions of political status with the administering Power. The vote, scheduled to take place on 2 November 2004, was postponed because eligible voters had not been identified and registered. To date, no further action has been reported.

13. During a meeting of the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly on 7 October 2009, seven Chamorro petitioners from Guam vigorously defended their people's right to self-determination and criticized the administering Power's "expansionist hypermilitarization" of the Territory, as well as what they described as its devastating cultural hegemony and onerous environmental policies.

14. According to reports in the media in early 2010, there is an ongoing discussion in Guam on issues related to the Territory's status, as well as on any moves towards self-determination. For instance, the media have reported that candidates for elections in the Territory have been called upon to state their positions on self-determination, and that self-determination under the United States flag is regarded as a "polarizing" issue.

III. Military issues

15. Guam was administered by the United States Navy until 1950, and remains the site of extensive United States naval and air force installations. Petroleum storage, munitions stowage, extensive communications facilities and other service industries that cater to the military establishment form the basis of the military infrastructure in Guam. According to media reports, in August 2009 the United States Air Force announced that a Global Hawk unit would be permanently established in Guam to accommodate three highly sophisticated unmanned planes.

16. As previously reported, the United States decided to realign United States Marine Corps capabilities in the Pacific region through the transfer of United States military personnel from Okinawa, Japan, to Guam. On 17 February 2009, an agreement on the movement of the Marine Corps personnel was signed. According to the administering Power, the whole build-up project would draw approximately 19,000 military personnel and their families, including 8,000 marines, 9,000 family

members and up to 2,000 other soldiers, sailors and associated personnel.¹ According to media reports, the Governor and Guam's congressional delegate, speaking at the April 2009 Guam Industry Forum, said that the build-up must benefit both the civilian and the military community.

17. As previously reported, opposition to the military expansion stems mainly from concerns about the sociocultural, economic and environmental impacts on Guam. Anticipated downsides to the economic upswing and greater activity expected to result from the build-up also include higher inflation, more congestion and greater pressure on outdated infrastructure, in addition to environmental concerns.

18. According to media reports, in August 2009 Guam's delegate introduced a bill (H.R. 3379) in the United States Congress to "amend the Radiation Exposure Compensation Act to include the Territory of Guam in the list of affected areas with respect to which claims relating to atmospheric nuclear testing shall be allowed". The bill was referred to the House Judiciary Committee. Earlier in the year, the delegate had reintroduced a bill authorizing \$126 million in compensation for Guam residents (or their survivors) who suffered during the Japanese occupation of the island during the Second World War. That bill, which had the support of President Barack Obama, was passed by the House of Representatives in January 2009 but was not approved by the United States Senate. The Guam delegate is planning to reintroduce it.

IV. Land issues

19. The question of land use and ownership continues to be a major concern in Guam. This question comprises two major issues: the return of unused or underutilized lands held by the United States Department of Defense and the return of those lands to the original Chamorro landowners. In 1994, the United States Congress passed the Guam Excess Lands Act (Public Law 103-339) to return 12.9 square kilometres to the people of Guam. No new information is available with regard to the impact the military build-up might have on the implementation of that law. The latest available data show that by 2005 a total of 180 parcels of land benefiting 2,000 families had been returned, an increase of 7 parcels over the previous year (see A/AC.109/2006/8).

20. According to media reports, the Guam Ancestral Lands Commission has collected about \$400,000 from leases and licenses to compensate original landowners who will never get their land back, but it is unclear when that money will be paid out and to how many people. Private landowners in the Territory have the right to refuse to sell any of their land for military purposes. As regards public land, such requests would need the approval of the Guam legislature.

¹ Information provided by the administering Power on 27 February 2010.

V. Budget

21. The budget of Guam comprises revenues received by the Government of Guam and federal grants, with the latter generally allocated to particular sectors through the Department of the Interior on an ad hoc basis. According to federal law, all island residents, including military personnel, have to pay income taxes to the Guam General Fund and not to the federal Government. The Governor has the power to veto a budget bill; however, the Legislature can either override the Governor's veto by a special majority or reconsider the bill.

22. In February 2010, the Governor sent the proposed 2011 budget to the Guam Legislature. The budget prioritizes education, health and public safety. It also addresses deficit reduction and provides for a partial funding of the pay increases for employees of the Government of Guam. The 2011 budget projects revenues of \$600,811,600, an 8 per cent increase from the projected budget levels adopted in fiscal year 2010.

23. The breakdown of the fiscal year 2011 executive budget is \$246 million (34 per cent) for education, \$101.6 million (14 per cent) for health and \$107.9 million (15 per cent) for public safety. The remainder of the proposed budget goes to other agencies and for other purposes, including 9 per cent for debt service, 2 per cent towards deficit reduction and 2 per cent for the implementation of the findings of a Government-wide pay study.

VI. Economy

A. General

24. The economy of Guam continues to have two primary pillars: tourism and the military. While tourism has been the primary driver of the island's economy for the last three decades, the Government of Guam and leaders in the private sector have worked to create an environment conducive to the development of other industries, such as financial services, telecommunications and transportation. Manufactured products include textiles and garments, cement and plastics.

25. According to media sources, 2009 witnessed a decline in tourist arrivals; however, the upcoming military expansion is likely to become the main engine of economic activity. The expansion is anticipated to benefit Guam's economy in the amount of \$1.5 billion per year once the process begins. In 2010, in his state of the island address, the Governor acknowledged the economic benefits of the military build-up, while also underlining that it would impact the Territory's environment and create financial, social and cultural challenges. He called on the federal Government to ensure a balance.

26. Guam has a duty-free port and is an important distribution point for goods destined for Micronesia. Re-exports constitute a high proportion of Guam's exports, which include petroleum products, iron and steel scrap, automobiles, tobacco and cigars, among other things. Major trading partners of the Territory include the United States, Japan, Germany and China.

B. Tourism

27. As previously reported, tourism continues to be the largest sector of Guam's economy, generating a significant part of the Territory's revenue. Despite the advertising efforts by the Guam Visitors Bureau in 2009 to promote tourism, the media reported a decline of visitors from Japan and the Republic of Korea, which could not be offset by an increase in arrivals from Taiwan Province of China. In June 2009, the Territory welcomed about 60,000 visitors, representing a significant decrease compared with almost 95,000 during the same month in 2008. The unstable global economy and widespread fears of catching swine flu while travelling were seen as contributing to the lower arrival numbers.

C. Construction

28. According to media reports, much of the construction activity now under way in the Territory is directly or indirectly related to the military build-up. A record almost \$800 million worth of military construction projects were proposed for fiscal year 2010 by the United States Administration in May 2009, including \$259 million to modernize the United States Naval Hospital, \$167 million to improve wharves at Apra Harbor and \$48 million for a haul-road network. The lifting in April 2009 of the moratorium on new building development is expected to stimulate new building and investments.

D. Transport and communications

29. According to media sources, the current transport infrastructure of Guam comprises one commercial and one military airport, approximately 1,000 kilometres of roadways (almost all paved) and one port. Guam's international airport is the most modern in the western Pacific. During 2009, a second runway was under construction there.

30. The Port Authority of Guam, which is a public corporation and an autonomous agency of the Government of Guam, administers the commercial port facilities at Apra Harbor. It is the entry point for 95 per cent of all goods entering Guam and serves as a trans-shipment centre for Micronesia. According to the administering Power, in December 2007 the Port Authority entered into a five-year agreement with both Matson and Horizon Lines for the non-exclusive right to use the port's rails for landing, installing, using and maintaining three refurbished cranes from the Port of Los Angeles. The cranes have recently been retrofitted and modified to enhance their productivity and handling capabilities.

31. As previously reported, Guam continues to serve as a major telecommunications hub for the Asia/Pacific rim. Guam has a modern digital telephone system, including cellular mobile service and local access to the Internet. The system is integrated with United States facilities for direct dialling, including the free use of "800" numbers.

E. Water system, sanitation and utilities

32. As previously reported, about three quarters of the Territory's water supply is provided by the Guam Waterworks Authority. The Government's water sources consist of groundwater and surface water (the Ugum River). The remainder is produced by the air force and naval installations on Guam. The naval water source is a surface reservoir (Fena Lake) in the southern part of the island.

33. In February 2010, the media reported that the Territory's Environmental Protection Agency had sharply criticized the military's plan to move thousands of marines to Guam without planning infrastructure upgrades to help prevent raw sewage spills and a shortage of water.

F. Agriculture and fisheries

34. The farming and fishing sectors are relatively well developed. Vegetables, citrus and tropical fruits, coconuts and sugar cane are grown, and livestock, especially poultry, is raised. The Guam Department of Agriculture is entrusted with developing and protecting the Territory's agriculture and natural resources. The Department is divided into divisions dealing with animal and plant industry, agricultural development, forestry and soil resources and aquatic and wildlife resources.

35. At a 2009 meeting in Hawaii, the Western Pacific Regional Fishery Management Council recommended that the United States Department of Defense and the National Marine Fisheries Service investigate and address the impact on local fishing communities of the ongoing military build-up and that they develop a mitigation and compensation plan to assist those affected, including in Guam.

VII. Social conditions

A. Labour

36. According to the Guam Department of Labor, the September 2009 unemployment rate was 9.3 per cent, an increase of one percentage point compared with September 2007. According to the statistics released by the Guam Department of Labor in 2009, average household income dropped by \$1,276, or 2.7 per cent, between 2005 and 2008.

37. As previously reported, on 7 March 2009 the United States Department of Labor announced that Guam was expected to receive \$4 million for employment and training programmes under the American Recovery and Reinvestment Act of 2009. The allocation was meant, inter alia, to address the immediate employment needs of low-income low-skilled workers.

38. Further, the Office of Insular Affairs of the United States Department of the Interior continues to work on developing training and apprenticeship programmes for eligible labourers in the Guam region. About 12,000 foreign workers and an estimated 5,000 residents are needed for the military build-up, which is scheduled to take place between 2010 and 2014. In this context, the Guam Contractors Association voiced concern over a proposal to align wages for workers on military

IX. Relations with international organizations and partners

51. Guam has been an associate member of the Economic and Social Commission for Asia and the Pacific since 24 July 1981. It is a member of the Secretariat of the Pacific Community and the Micronesian Chief Executives Summit. According to the administering Power, in 2009 Guam expressed the wish to be allowed to interact more with and obtain observer status at the Pacific Islands Forum.

X. Future status of the Territory

A. Position of the territorial Government

52. Developments regarding discussions on the future status of Guam are reflected in section II above.

B. Position of the administering Power

53. Most recently, in a letter dated 2 November 2006 addressed to American Samoa's delegate to the United States House of Representatives, the Assistant Secretary of State for Legislative Affairs elaborated the position of the Government of the United States, which was considered equally valid for 2009, on the status of American Samoa and other United States insular areas. In his letter, the Assistant Secretary of State indicated that the status of the insular areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee of 24 on Decolonization. In the letter, the Assistant Secretary of State also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories, and no mandate to engage the United States in negotiations on their status. The letter further stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions in the Territory, the federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee might have received from other sources.

C. Action taken by the General Assembly

54. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee for 2009 transmitted to the General Assembly (A/64/23 and Corr.2) and the subsequent consideration of that report by the Special Political and Decolonization Committee (Fourth Committee) (see A/64/413). Section VI of resolution 64/104 B concerns Guam. Under that section's operative paragraphs, the General Assembly:

1. Called once again upon the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in

Guam law regarding Chamorro self-determination efforts, and encouraged the administering Power and the territorial Government to enter into negotiations on the matter;

2. Requested the administering Power, in cooperation with the territorial Government, to continue to transfer land to the original landowners of the Territory, to continue to recognize and to respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam and to take all measures necessary to address the concerns of the territorial Government with regard to the question of immigration;

3. Also requested the administering Power to cooperate in establishing programmes for the sustainable development of the economic activities and enterprises of the Territory, noting the special role of the Chamorro people in the development of Guam;

4. Recalled the request made previously by the elected Governor to the administering Power to lift restrictions to allow for foreign airlines to transport passengers between Guam and the United States of America to provide for a more competitive market and increased visitor arrivals;

5. Requested the administering Power to assist the Territory by facilitating public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in that regard, called upon the relevant United Nations organizations to provide assistance to the Territory, if requested.



General Assembly

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

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* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

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I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, comprising two large islands, known as East and West Falkland, as well as hundreds of smaller islands, and a total area of about 12,173 square kilometres. The Falkland Islands (Malvinas) are situated in the South Atlantic, about 770 kilometres north east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate territory; the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the latest census (2006), the population of the Territory was 2,478 (not including residents temporarily absent and civilians working in conjunction with the Ministry of Defence), up from 2,391 in 2001 and representing the largest population since 1931. A dispute exists between the Governments of Argentina and the United Kingdom concerning sovereignty over the Falkland Islands (Malvinas).

II. Constitutional and political developments

2. As previously reported, the Constitution approved in 2008 came into force on 1 January 2009 (Statutory Instrument 2008, No. 2846). According to the administering Power, as compared with the 1985 Constitution, the new Constitution enhances local democracy, establishes a greater degree of internal self-government and provides greater transparency and accountability. As before, members of the legislature elect a Speaker to preside over sittings of the Legislative Assembly, which meets regularly. A Chief Executive is appointed by the Governor in agreement with the Legislative Assembly as head of the public service to implement policy. Each member takes responsibility for a particular portfolio and works closely with the relevant departments. Members do not have ministerial responsibility. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Assembly who are elected annually from their own number, in addition to two ex-officio members who have no voting rights. The Attorney-General and the Commander of British Forces on the Islands have the right to attend meetings of the Executive Council but do not vote. The Governor retains responsibility for foreign policy and defence. By the terms of the new Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Territory, while full power to make laws for the peace, order and good government of the Territory is reserved for the British Crown.¹

3. The last general elections were held for all eight members of the Legislative Assembly on 5 November 2009, five from the Territory's urban constituency

Note: The information contained in this working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations as well as information provided by the Government of Argentina and that available in published sources.

¹ Information provided by the administering Power on 29 December 2009.

(Stanley) and three from the Camp (i.e., outside the Territory's only town), for a four-year term. The current Governor, Alan Huckle, took up his appointment in August 2006. In 2009, Nigel Haywood was appointed to succeed Mr. Huckle as Governor, and is expected to take up his appointment in September 2010.

4. As previously reported, regarding the reform process pertaining to the 1985 Constitution, the Argentine Government protested on 6 November 2008 against what it termed "a unilateral act" carried out by the United Kingdom "whereby it claims to have adopted a new 'constitution' for the Malvinas Islands", in "disregard for the resolutions on the question of the Malvinas Islands duly adopted by the General Assembly and the Special Committee on Decolonization" and in "violation of the spirit of the provisional understandings under the sovereignty formula" reached by Argentina and the United Kingdom (see A/63/542, annex I).

5. With reference to Argentina's protest, on 3 December 2008 the United Kingdom rejected the assertions that the Falkland Islands Constitution Order 2008 was contrary, either in practice or in spirit, to any aspect of the Joint Statements agreed between the United Kingdom and Argentina or that it contravened any General Assembly resolutions (see A/63/589).

6. During 2009 and 2010, Argentina and the United Kingdom reiterated their respective positions regarding the sovereignty dispute, including by Argentina through the issuance of press releases on 10 June 2009 in connection with the observance of the "Day of Affirmation of Argentine rights over the Malvinas Islands" and other areas, and on 3 January 2010 "on the occasion of the latest anniversary of the illegal occupation of the Malvinas Islands by the United Kingdom", and by the United Kingdom through written demarches at the United Nations rejecting territorial and other claims made by Argentina.

7. The positions of the administering Power and the Government of Argentina are also referred to in section IX below.

III. Budget

8. The Territory's financial year runs from 1 July to 30 June. According to the administering Power, the Territory makes every effort to maintain a balanced budget, but in 2009 a temporary budget deficit was agreed following the recent global investment crisis. For 2009/2010, the approved estimate for total revenue was £42 million, of which £14.5 million was estimated to come from fisheries, £4.5 million from investment income, £10.2 million from taxation and £5.4 million from public works. During the same period, the revised estimate for expenditure was £43 million.¹

IV. Mine clearance

9. Under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, known as the Ottawa Convention, States parties are obliged to clear anti-personnel mines in mined areas within 10 years of the Convention's entry into force, unless an extension is granted under the Convention.

10. As previously reported, on 28 November 2008, the Ninth Meeting of States Parties to the Ottawa Convention, decided to grant the United Kingdom an extension until 1 March 2019. Subsequently, according to the administering Power, the United Kingdom decided to proceed with the clearance of four mined areas in the Territory. Following a rigorous procurement exercise, the United Kingdom signed a contract with a private company in October 2009, and made arrangements for setting up a demining project office to carry out quality control and assurance checks so as to ensure the land was cleared safely and to the required depth. Work had already begun and was expected to be completed by April 2010.¹

11. Further, in November 2008 the Ninth Meeting of the States Parties agreed that the Convention's Second Review Conference would be held in Cartagena, Colombia, from 30 November to 4 December 2009. As reflected in its final report, adopted on 4 December 2009, the Cartagena Conference assessed the request submitted by Argentina for an extension of Argentina's deadline for the destruction of anti-personnel mines in mined areas of the Falkland Islands (Malvinas) in accordance with article 5.1, agreeing to grant the request for an extension until 1 January 2020. In granting the request, the Conference noted that, while Argentina had put forward a "schematic plan" for implementing article 5 in mined areas that it has reported to be under its jurisdiction or control, Argentina itself has indicated that it "does not exercise territorial control over the land to be demined". The Conference further noted the importance of a State Party providing information on changes to the status of the control of mined areas.

12. More information on the subject is contained in the working paper prepared by the Secretariat in 2009 (A/AC.109/2009/13).

V. Economic conditions

A. General

13. According to the administering Power, the gross domestic product (GDP) of the Islands was estimated to be about £104 million in 2009. Increasing revenue from corporation tax indicates a growing private sector. The fishing industry remains the most important sector of the economy (about 60 per cent of GDP), and the tourism sector has witnessed growth. The Territory's stated aim is to ensure a diverse and sustainable economy for the future, and work is being done in partnership with the private sector to develop a long-term economic development strategy. The latest Islands Plan (2009-2013) is available on the Internet. Like the previous Plan, it outlines a vision for improved financial management, quality of life and communications while ensuring a sustainable economy.

B. Fisheries

14. Loligo and illex squid are the mainstay of the fisheries and economy of the Territory, as previously reported by the administering Power. In addition to those two squid species, a number of finfish are targeted, including southern blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fisheries sector in the Territory. Following the enactment of the Fisheries (Conservation and Management) Ordinance in 2005, the Territory began

implementing the new licensing regime. According to information provided, Argentina continued to censure this regime in 2009. More information on the subject is contained in the 2007, 2008 and 2009 working papers prepared by the Secretariat (A/AC.109/2007/13, A/AC.109/2008/13 and A/AC.109/2009/13).

C. Tourism

15. According to information provided by the administering Power, tourism is a significant contributor to the Territory's economy, valued at approximately £5 million per annum. As previously reported, there has been a measurable expansion in the Falkland Islands (Malvinas) tourism sector in recent years, with an average growth rate in visitor arrivals of 21 per cent between the 2000/2001 and 2007/2008 seasons. According to the administering Power, approximately 62,000 tourists, largely from cruise ships, visited the Falkland Islands (Malvinas) in 2008/2009, leaving almost £4.2 million revenue in the Territory. This figure includes spending on tours, shopping, and food, as well as over £1.3 million in the form of taxes and levies.

D. Agriculture, land tenure and livestock

16. As previously reported based on information provided by the administering Power, the most significant change in agriculture in recent years has been the development of the meat industry and of farming adjusted to produce dual-purpose sheep that will maximize returns from both meat and wool. According to the administering Power, 1.6 million kilograms of wool were exported from the Islands in 2008, and 33,000 sheep and lambs were processed through the Sand Bay abattoir for export in 2009. The Territory has an ongoing 10-year plan in support of agriculture, although spending under the plan has decreased every year since 2004 as farmers invest more of their own funds into their production units. Pasture and genetic improvement programmes as well as the expansion of the meat industry form the core of the Territory's agricultural development strategy. The amount of farmland in use has gradually declined over the years, owing to farming methods becoming more intensive to meet export market requirements.

E. Transport, communications and other basic facilities

17. According to the administering Power, there is a coastal shipping service supplying fuel and stores to settlements on the east, west and outlying islands, as well as a regular ferry service between the two main islands, carrying both passengers and freight.

18. In 2009, the LanChile airline continued to provide regular weekly service between Punta Arenas, Chile, and the Falkland Islands (Malvinas), including two monthly stopovers in Rio Gallegos on mainland Argentina, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. In October 2009, two groups of relatives of Argentine soldiers buried in the Territory availed themselves of this regular service to participate in the inauguration of the Memorial at the Darwin Cemetery on the Islands, whose erection was envisaged under the Joint Statement.

19. Moreover, according to information provided by Argentina, under the Exchange of Notes Agreement of 23 February 2001, private flights were authorized, as were a number of medical evacuation flights from the Falkland Islands (Malvinas) to mainland Argentina, and Chile. As previously reported, since 3 November 2003, no non-regular flight between third countries and the Falkland Islands (Malvinas) by any company flying under the flag of a third country has been authorized by Argentina. No agreement between Argentina and the United Kingdom has been reached on the Argentine proposal made in 2003 aimed at the establishment of direct, regular air service between mainland Argentina and the Falkland Islands (Malvinas) operated by an Argentine air company.

20. Communications, both internally and with the outside world, have improved over the past several years. According to the administering Power, there are well over 1,000 computers in the Territory, and in 2009 approximately 74 per cent of households were connected to broadband Internet, while 248 computers used a dial-up connection. There were also some 4,000 mobile and 1,759 fixed-line telephones operating within the resident population.

21. More information on transport arrangements, communications and other basic facilities such as electricity generation is contained in previous working papers prepared by the Secretariat, including the 2009 working paper A/AC.109/2009/13.

F. Environment and hydrocarbons

22. As previously reported, according to the administering Power, the Falkland Islands (Malvinas) works to uphold a number of environmental treaties. For its part, according to information provided by Argentina, the Argentine Republic has rejected the territorial application effected by the United Kingdom of the United Nations Framework Convention on Climate Change and the Kyoto Protocol, the Agreement on the Conservation of Albatrosses and Petrels, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on the Conservation of Migratory Species of Wild Animals and the Ramsar Convention on Wetlands, on the grounds that the Falkland Islands (Malvinas), along with the surrounding maritime areas, were an integral part of the territory of Argentina.

23. According to the administering Power, traces of hydrocarbons have been found in exploration wells in offshore waters to the north of the Islands since 1998, but no commercial discovery was made. More recently, companies contracted a semi-submersible rig to drill additional exploration wells, which commenced in February 2010. Exploration activities, expected to last under a year, would benefit the local economy. The Territory would also receive some direct revenue in taxation from the oil industry. In the event that a commercial oil discovery is made during that drilling programme or a future one, any production activity would be developed offshore with a view to keeping onerous socio-economic, health, safety and environmental impacts to a minimum.

24. According to information provided, over the years Argentina has censured the aforementioned offshore drilling and production programmes, including in 2009 and in February 2010, when the Government of Argentina submitted a note of protest to the United Kingdom firmly rejecting "the British attempt to authorize hydrocarbon exploration and exploitation activities in areas of the Argentine continental shelf"

(see A/64/653) around the Falkland Islands (Malvinas). In this connection, the same month Argentina issued a presidential decree requiring authorization for vessels calling at Argentine ports or crossing Argentine waters. Further information on the subject, see A/64/653, annex.

VI. Social conditions

A. General

25. As previously reported, according to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms have been extended to the Falkland Islands (Malvinas) by the administering Power. Furthermore, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under those instruments. There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women, including its Optional Protocol, and the Convention on the Rights of the Child have been applied by the United Kingdom in the Falkland Islands (Malvinas).

26. For its part, according to information provided, Argentina has consistently rejected the territorial application by the United Kingdom of these various instruments, as well as the designation of the Territory as an Overseas Territory of the United Kingdom or any other similar designation.

B. Public health

27. The general state of health in the Falkland Islands (Malvinas) is good. According to the administering Power, the majority of medical and dental treatment and prescription drugs are free to all Falkland Islands (Malvinas) and United Kingdom residents under a reciprocal health agreement. All health services are based at the King Edward VII Memorial Hospital in the Territory's town, which provides a range of primary-care services to the civilian population, military personnel stationed in town and foreign fishing fleet personnel around the Islands. In addition, there is a visiting medical service supporting outlying farm settlements. The hospital has facilities to deal with acute medical and surgical conditions. It has approximately 30 beds, including 1 maternity and 2 intensive-care beds. Patients requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile or, in emergencies, to Montevideo.

C. Social security and welfare

28. As previously reported, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and by employees between the ages of 17 and 64. The Falkland Islands Pension Scheme Ordinance 1997 provides for a national defined-contribution vehicle through which

employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions, under employer-employee agreements or voluntarily, during their working lives and receive a pension upon retirement. According to the administering Power, a system of social welfare grants and pensions is in place to deal with cases of hardship and disability.

D. Education

29. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16, with access to preschool (nursery) education from the age of 4. As previously reported, according to information provided by the administering Power, the Government provides staff, equipment and supplies for education, has a primary and a secondary school in the Territory's town and operates two settlement schools. In the rural areas, younger children either attend the settlement schools or are visited by travelling teachers. There are also daily lessons by telephone available. Students above the age of 16 who qualify in examinations are funded for studies overseas, mostly in the United Kingdom.

30. Further, in 2008/2009 there were 392 schoolchildren being educated in the Falkland Islands (Malvinas), while continuing education past 16 years of age was being provided locally through the training unit of the education service, involving 20 students. Meanwhile, 70 further and higher education pupils were being educated overseas. According to information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equality of access to the Argentine public education system. Additional information on the subject is contained in the 2009 report of the Secretary-General on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (A/64/69).

VII. Participation in international organizations and arrangements

31. According to information provided by the administering Power, the Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Also, representatives of the Government participate, as members of the United Kingdom delegation, in discussions on various matters affecting their interests.

32. As previously reported, under the United Nations Convention on the Law of the Sea, claims for an extended continental shelf by those coastal States for whom the Convention came into force on or before May 1999 were to be submitted to the Commission on the Limits of the Continental Shelf by May 2009. On 21 April 2009, Argentina made a submission to the Commission on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, and on 11 May 2009, the United Kingdom made a submission to the Commission on the limits of the continental shelf beyond 200 nautical miles, inter alia, in respect of the Falkland Islands (Malvinas), with each side subsequently rejecting the submission of the other and reaffirming its respective position on sovereignty over the Territory. In a statement (see CLCS/64 of 1 October 2009), the Chairman of the Commission stated with regard to the

submission made by Argentina that the Commission had decided that, in accordance with its rules of procedure, it was not in a position to consider and qualify those parts of the submission that are subject to dispute.

VIII. Consideration by intergovernmental organizations and forums

33. The Treaty of Lisbon was signed by the European Union member States on 13 December 2007, and came into force on 1 December 2009, amending the Treaty on European Union and the Treaty establishing the European Community.

34. According to the administering Power, the Lisbon Treaty confirms the Territory's association with the European Union in accordance with part four of the Treaty on the Functioning of the European Union, specifically articles 198 to 204; the name of the Territory is listed in annex II of the same treaty under European Union associated territories. Additional information is contained in the annex to document A/64/672.

35. Argentina, referring to the entry into force of the Treaty of Lisbon, rejected the attempt to include, *inter alia*, the Falkland Islands (Malvinas) in the list of territories in annex II to which part four of the treaty applies on the grounds that it was part of Argentine national territory. Additional information is contained in the annex to document A/64/612.

36. During meetings in 2009, intergovernmental entities such as the Arab and South American Countries Summit (Doha, 31 March 2009); General Assembly of the Organization of American States (San Pedro Sula, 4 June 2009); Southern Common Market (Asunción, 24 July 2009; Montevideo, 8 December 2009); Union of South American Nations (Quito, 10 August 2009); African and South American Countries Summit (Isla Margarita, 27 September 2009); Rio Group (Montego Bay, 5 November 2009); Latin American and Caribbean Ministerial Meeting on Integration and Development (Montego Bay, 6 November 2009); and Ibero-American Summit (Estoril, 1 December 2009) addressed the question of the Falkland Islands (Malvinas) and reaffirmed the need for Argentina and the United Kingdom to resume negotiations to find a peaceful solution to that long-standing dispute. As previously reported, the United Kingdom is not a member of the aforementioned organizations, nor has it been represented at any of the aforementioned meetings, with the exception of the Organization of American States, where the United Kingdom has observer status. Further information on this matter can be found in working paper A/AC.109/2009/13, and section X.B below.

IX. Future status of the Territory

A. Position of the administering Power

37. By a letter dated 25 September 2009 addressed to the President of the General Assembly (A/64/466, annex), in exercise of the right of reply to the remarks of the President of Argentina in her address to the General Assembly on 23 September 2009, the Permanent Representative of the United Kingdom stated the position of his Government as follows:

1. "The United Kingdom has no doubt about its sovereignty over the Falkland Islands.
 2. "The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.
 3. "The Falkland Islands are not a colonial enclave. Britain's Overseas Territories are British for as long as they want to remain British. The people of the Falkland Islands have chosen to retain their link with Britain. The democratically elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of 24.
 4. "They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.
 5. "There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Islanders so wish."
38. According to information provided by the administering Power, in his annual message to the Territory for 2010, the Prime Minister of the United Kingdom, Gordon Brown, restated the commitment of the United Kingdom to the Islanders and their right of self-determination:
1. "I met President Kirchner twice in 2009, but as always, I made it clear in our discussions that we have no doubts about United Kingdom's sovereignty over the Falkland Islands, and that the principle of self-determination underlies this. There can be and there will be no negotiations on the sovereignty of the islands unless and until such time as you so wish."¹

B. Position of the Government of Argentina

39. As reflected in the official record of the 4th plenary meeting of the sixty-fourth session of the General Assembly on 23 September 2009 (A/64/PV.4), the President of Argentina, Cristina Fernández de Kirchner, in her address to the General Assembly, referred to the situation of the Argentine Republic, where a "colonial enclave, our Malvinas Islands" persisted without the possibility of addressing the question of sovereignty together with the United Kingdom, as called for in many General Assembly resolutions. The President went on to say that, following a humanitarian request, Argentina and the United Kingdom had agreed that family members with loved ones buried on the islands would be permitted to visit to pay tribute to those who had fought for their homeland.
40. Additional information on the position of the Government of Argentina can be found in section X.A below.

X. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

41. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 9th and 10th meetings on 18 and 19 June 2009, respectively (see A/AC.109/2009/SR.9 and 10). At the 9th meeting, the Special Committee decided to accede to the request of Argentina, Brazil, El Salvador, Guatemala, Honduras, Paraguay, Peru and Uruguay to participate in the Committee's consideration of the item.

42. Also at the 9th meeting, statements by Mr. Stevens and Ms. Robertson from the Legislative Council of the Falkland Islands (Malvinas) were heard. Ms. Reynolds and Mr. Vernet also made statements.

43. At the same meeting, the representative of Chile, on behalf of Bolivia, Chile, Cuba, Ecuador and the Bolivarian Republic of Venezuela, introduced draft resolution A/AC.109/2009/L.8, which reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom. It requested both parties to consolidate the current process of dialogue and cooperation through the resumption of negotiations in order to find as soon as possible a peaceful solution to the dispute, in accordance with the provisions of the relevant General Assembly resolutions.

44. The Foreign Minister of Argentina, Jorge Taiana, made a statement at that meeting (see A/63/923). As reflected in the meeting's summary record, the Foreign Minister, *inter alia*, stated that the situation of the Malvinas Islands was unlike any other. The United Kingdom had violated the political unity and territorial integrity of the Argentine Republic and continued its occupation of the islands, whose population had been expelled and replaced with an implanted foreign population. To claim that the principle of self-determination should be applied to such people would be a flagrant misrepresentation of logic, justice and law. By saying that it would agree to resume negotiations with Argentina only if the islands' inhabitants so wished, the United Kingdom was ignoring the will of the Member States of the Organization and introducing a unilateral precondition that had not figured in any of the resolutions on the subject. Argentina was prepared to comply with the obligation to resume sovereignty negotiations over "the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas". That obligation applied to both parties.

45. Further, Argentina had taken steps to cooperate with the United Kingdom on practical matters deriving from the *de facto* situation with a view to creating a framework conducive for the two parties to resume negotiations. In spite of that, the United Kingdom had committed a number of unilateral acts in the disputed areas, in violation of General Assembly resolution 31/49, such as the extension of the fisheries licensing regime to include 25-year fishing quotas; the granting of licences for hydrocarbon activities; the refusal to operate charter flights; and the inclusion of parts of Argentine national territory in its submission to the Commission on the

Limits of the Continental Shelf. The speaker concluded by reiterating that Argentina was prepared to negotiate on the basis of international law and the various resolutions on the question with a view to achieving a just and definitive resolution of the sovereignty dispute.

46. At the 9th and 10th meetings of the Special Committee the representatives of Bolivia, Brazil, China, Cuba, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Indonesia, Mali, Paraguay, Peru, the Russian Federation, Sierra Leone, the Syrian Arab Republic, Saint Lucia, Tunisia, Uruguay and the Bolivarian Republic of Venezuela also made statements on the question of the Falkland Islands (Malvinas).

B. Special Political and Decolonization Committee (Fourth Committee)

47. On 5 and 9 October 2009, during the debate on decolonization issues in the Special Political and Decolonization Committee (Fourth Committee) at the sixty-fourth session of the General Assembly, several delegations referred to the question of the Falkland Islands (Malvinas) (see A/C.4/64/SR.2 and A/C.4/64/SR.6).

48. The representative of Uruguay, speaking on behalf of the countries of the Southern Common Market (MERCOSUR) and its associated States, reiterated their support for the legitimate rights of Argentina in the sovereignty dispute as the Presidents of the member States of MERCOSUR and its associated States had reaffirmed that support in a Joint Communiqué, adopted at a meeting of the Council of the Common Market. The only way to find a solution to the sovereignty dispute over "the Malvinas Islands, South Georgia Islands and South Sandwich Islands, and the surrounding maritime areas" was through the resumption of negotiations. The representative recognized the willingness of Argentina to do so and urged the United Kingdom to comply with the relevant resolutions of the United Nations and other international bodies.

49. The representative of Mexico, speaking on behalf of the Rio Group, said that the Governments of Argentina and the United Kingdom must resume their negotiations in order to find a solution to the sovereignty dispute in accordance with the relevant decisions of the General Assembly, the Special Committee and others, as soon as possible, bearing in mind the principle of territorial integrity.

50. The representative of the United Kingdom, speaking in exercise of the right of reply, reiterated his Government's well-known position that the United Kingdom had no doubts about its sovereignty over the Territory and that there could be no negotiations on sovereignty unless and until the Islanders themselves so wished.

51. The representative of Argentina, in response to remarks made by the United Kingdom delegation, stated his Government's position that "the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas" were an integral part of the territory of Argentina. The representative went on to say that various international organizations and the General Assembly had recognized the dispute over sovereignty, urging the Governments of Argentina and the United Kingdom to resume negotiations to settle the dispute.

C. Action taken by the General Assembly

52. Under resolution 58/316 of 1 July 2004, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As of the date of the issuance of the present report, there had been no such notification by a Member State to the General Assembly.



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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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I. General

1. Gibraltar is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 square kilometres; according to Spain, which claims sovereignty over the Territory, it is 4.8 square kilometres. Issues relating to the water off Gibraltar continue to be a subject of contention. According to the administering Power, in 2008 the Territory had a population of 29,286.¹

II. Constitutional, legal and political issues

2. The Gibraltar Constitution Order 2006 came into force on 2 January 2007. Under the Constitution, as previously reported, the Governor of Gibraltar represents the British crown in the Territory and is responsible for the conduct of external affairs, defence, internal security (including the police, in conjunction with the Police Authority for Gibraltar) and for certain appointments as conferred on him by the Constitution. The Governor, together with the Council of Ministers, constitutes the Government of Gibraltar. Following an election, the Governor, acting at his discretion, shall appoint as Chief Minister the elected member of the Parliament who, in his judgement, is most likely to command the greatest measure of confidence among the elected members of the Parliament. Other ministers shall be appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Parliament.

3. Gibraltar has a Supreme Court allowing for appeals to a Court of Appeal and thence to Her Majesty in Council, acting on the Privy Council's advice. The 2006 Constitution provides for the establishment of a Judicial Service Commission, which was set up under the Judicial Service Act 2007, Act No. 2007-26. The Commission has executive powers, subject only to an exceptional power of veto by the Governor, to advise the Governor in respect of certain matters, such as the appointments to the offices of the Chief Justice and other members of the judiciary. The Governor, with the prior approval of a Secretary of State, may disregard the advice of the Commission in any case where he judges that compliance with that advice would prejudice the British crown's service. In November 2009, the Commission met to consider the advice from the Judicial Commission of the Privy Council in London concerning the question of the Chief Justice suspended since early 2008, as reflected in working paper A/AC.109/2008/8, and opted for the removal of the Chief Justice by a majority of 4 to 3. According to information published by the territorial Government, on 18 November 2009, acting on the advice received from the Judicial

Note: The information contained in the present paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations and from information provided by the Government of Spain and other published sources, including those of the territorial Government.

¹ Information provided by the administering Power, 5 January 2010.

Service Commission, the Governor carried out the removal by means of dismissal of the Chief Justice.

4. Under the Gibraltar Constitution of 2006, the British crown retains full power to make laws from time to time for the peace, order and good government of Gibraltar. Included in those powers are laws amending or revoking the Constitution. The Constitution also makes provisions regarding crown lands in Gibraltar.

5. According to the 2006 Constitution, the Governor shall dissolve Parliament in preparation for the next general election four years from the date of the first meeting of Parliament after any general election, unless it has already been dissolved.

6. The last general elections in Gibraltar were held on 11 October 2007. The incumbent Gibraltar Social Democratic Party obtained 49 per cent of the vote, followed by the Gibraltar Socialist Labour Party, with almost 32 per cent and the Liberal Party with over 13 per cent. Peter Caruana, leader of the Gibraltar Social Democratic Party, was reappointed Chief Minister of Gibraltar for a fourth term. Joseph Bossano of the Gibraltar Socialist Labour Party continues as leader of the opposition, which comprises the Gibraltar Socialist Party and the Liberal Party. The next elections are due to be held by the end of October 2011.

7. After a 10-year campaign to exercise the right to vote in European elections, in June 2004 Gibraltarians took part in European parliamentary elections, based on the fact that they were considered by the administering Power to be part of the south west England region for electoral purposes.

8. As previously reported, Spain maintains the position that the 2006 Constitution represented a modernization of the Territory's Government that in no way affects the international capacity of Gibraltar, that its adoption was a reform of the colonial regime, which remains unaltered, and that it did not affect in any way the pending decolonization process of Gibraltar, to which the principle of self-determination does not apply.

9. Information on the positions of the administering Power, the territorial Government and the Government of Spain, as well as on the trilateral Forum of Dialogue on Gibraltar, including agreements reached in 2006 at Córdoba, is reflected below.

III. Budget

10. In the budget speech delivered on 25 June 2009, the Chief Minister gave a positive account of Gibraltar's public finances. According to information provided by the administering Power, the territorial Government's revenue was £262.1 million as at 31 March 2009 and its expenditure stood at £182.5 million, with £105.8 million approved expenditure on capital projects for 2009/10.

11. The Chief Minister's budget speech of 25 June 2009 underlined the importance of Gibraltar's freedom to have its own tax system, separate and different from that of the United Kingdom. This was considered absolutely essential to the Territory's continued economic, and thus social and political, viability. The Chief Minister further indicated that the exempt status tax regime would end by 31 December 2010, when new corporate tax rates would come into effect. With regard to personal taxation, the territorial Government had introduced a dual tax system under which

taxpayers could choose between two different systems. One, known as the Allowance-Based System, was the traditional system; the other was known as the Gross Income-Based System, under which the tax rates were lower, but the taxpayer was entitled to no allowances.

IV. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. Prior to 1980, the economy was largely dependent on United Kingdom Ministry of Defence expenditures. With the downsizing of the military base, the economy has increasingly become focused on tourism and the provision of financial services, including banking, insurance, shipping and portfolio management.

13. As previously reported, the Ministry of Defence of the United Kingdom employs around 8 per cent of the Territory's labour force and contributes about 7 per cent of Gibraltar's gross domestic product (GDP). According to the Ministry's annual report 2008-2009, Gibraltar continued to provide a forward mounting base for United Kingdom Armed Forces providing security, logistic communications and training facilities in support of operations. Management of the built estate on the Permanent Joint Operating Bases overseas in Gibraltar is delivered through a series of infrastructure support provider contracts. Further information concerning Gibraltar's military installations and strength can be found in previous working papers (A/AC.109/2005/11, A/AC.109/2008/8 and A/AC.109/2009/15).

14. In his 2009 budget speech, the Chief Minister stated that Gibraltar's economy had continued to grow at a healthy rate and that the number of jobs in the economy had also continued to grow to record levels. The prospects for the Territory's economy remained sound and stable. In the year ending 31 March 2009, GDP was provisionally estimated to have grown by nearly 6 per cent to £850 million. According to the administering Power, per capita GDP stood at £27,468 and the inflation rate at 2.8 per cent as at October 2009.

B. Trade

15. According to the administering Power, Gibraltar's total imports were approximately £1.6 billion for 2008, the latest available figure. Around 29 per cent of Gibraltar's non-fuel imports originated from the United Kingdom. Other sources included Germany, the Netherlands and Spain. Gibraltar's total exports in 2007 were approximately £1.3 billion. Exports were mainly re-exports of petroleum and petroleum products supplied to shipping.

C. Banking and financial services

16. Gibraltar has a well-developed financial sector, which is regulated by an independent statutory body, the Financial Services Commission. The Gibraltar Finance Centre is charged with the marketing and promotion of financial services. According to an independent review of British offshore financial centres published

in October 2009, commissioned by the Government of the United Kingdom, the 12 banks operating in Gibraltar are large multinational operations, which have either significant home state public ownership or have tacit or explicit state support. The remaining banks are primarily smaller wealth managers. The review indicated that Gibraltar had "substantially implemented" the principles of transparency and exchange of information developed by the Global Forum of the Organization for Economic Cooperation and Development, which have been endorsed by countries around the world.

17. For their part, Spain, the United Kingdom and Gibraltar, gathering at the ministerial meeting of the Forum of Dialogue on 21 July 2009 in Gibraltar, highlighted with regard to financial services and taxation their desire to establish normal lines and methods of cooperation, including exchange of tax information, and regular contacts, liaison and exchanges between regulatory authorities on taxation and anti-money-laundering issues and policies.

D. Transportation, communications and utilities

18. Regarding road transportation in and out of Gibraltar, the arrangements agreed upon at Córdoba and which came into force on 20 December 2006, including the introduction at the fence/frontier of lanes in both directions and red and green channels for both people and vehicles, continue to be in place. Customs and police checks remain necessary, since Gibraltar does not belong to the European Union customs union. Moreover, the United Kingdom (and thus Gibraltar) is outside the so-called Schengen area for external borders purposes.

19. The United Kingdom Government continues to be responsible for all international obligations relating to aviation safety and security in respect of Gibraltar Airport, a military airfield available for civilian flights, with the Ministry of Defence retaining ownership of and operational responsibility for the military aviation aspects of the airfield, as previously reported. In 2009, according to Royal Air Force figures, the airfield was run by approximately 45 servicemen, commanded by a wing commander.

20. As reflected in the communiqué resulting from the third ministerial meeting of the Forum of Dialogue, held in Gibraltar on 21 July 2009, the participants reviewed progress on the implementation of the Córdoba statements, including the Airport Declaration. The participants confirmed their commitment to further improvements in fluidity at the fence/frontier, and undertook to engage each other further to bring this about.

21. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships. According to the territorial Government's 2009 budget statement, port business continued to perform well and was firmly established as a profit centre for the Government. According to the aforementioned July 2009 communiqué of the Forum's third ministerial meeting, the participants agreed to seek to ensure a high level of environmental protection in Gibraltar and the whole region, especially the Campo de Gibraltar, by proposing cooperation in such areas as pollution from maritime activity and traffic, bunkering operations, industrial emissions and water discharges, waste disposal and land reclamations; to take forward their desire to cooperate in maritime communications and safety issues; and

to seek ways of further facilitating the Moroccan community in Gibraltar to transit Spain en route to and from Gibraltar and Morocco on family visits.

E. Tourism

22. According to the territorial Government, tourism had an excellent year in 2008, and the trend appeared to continue in 2009. Arrivals over the land border reached a new record of 9.43 million, an increase of 7 per cent. Vehicle arrivals, air arrivals, museum visitors, cruise liner passengers and hotel arrivals and room nights sold all climbed to record levels. Yacht arrivals also rose slightly. As previously reported, arrivals in Gibraltar by land comprise mainly day visitors arriving from Spain, arrivals by air are primarily from the United Kingdom, and arrivals by sea comprise ferry arrivals from Morocco and day-trip arrivals from cruise ships.

V. Social conditions

A. Labour

23. In 2009, the Chief Minister stated that Gibraltar's employment remained at record levels and job security had not significantly deteriorated. According to the administering Power, as at October 2008, the number of people employed by the five largest economic sectors was as follows: banking and finance (2,903); building and construction (2,913); wholesale and retail trade (2,223); public administration and defence (1,963); and gambling and betting activities (1,952); unemployment stood at 2.9 per cent.

B. Human rights

24. As previously reported, the following major international human rights instruments apply in Gibraltar: the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination. Gibraltar's Constitution of 2006 includes an updated chapter on the fundamental rights and freedoms of the individual.

C. Social security and welfare

25. The social security and welfare sectors in Gibraltar continue to be governed by the Social Security (Employment Injuries Insurance) Act (1952), under which benefits are paid for injury, disablement and industrial deaths; the Social Security (Closed Long-Term Benefits and Scheme) Act (1996) and the Social Security (Open Long-Term Benefits Scheme) Act (1997), which cover old-age pensions, guardian allowances and widow/widower benefits; and the Social Security (Insurance) Act (1955) and the Social Security (Non-Contributory Benefits and Unemployment

Insurance) Act (1955), which include maternity grants, maternity allowances and death grants.

26. According to the Chief Minister's 2009 budget speech, the maximum weekly social insurance contribution rose by 4 per cent in respect of both employers' and employees' contributions as at 1 July 2009. Moreover, in an effort to standardize pension rights, with effect from 1 July 2009, discrimination was eliminated so that a widower and his children would have the same rights on the death of his wife/their mother as those of a widow and her children on the death of her husband/their father.

D. Public health

27. The Gibraltar Health Authority is responsible for providing health care in the Territory. According to the territorial Government's 2009 budget statement, the expenditure of the Authority for the period 2008/09 was £67 million. As previously reported, the St. Bernard's Hospital at Europort opened in 2005 to provide a comprehensive outpatient service, as well as inpatient treatment for acute medical and surgical cases. In 2009, it was estimated that life expectancy in Gibraltar was approximately 77 years for males and 83 years for females, and the population growth rate was estimated to be 0.1 per cent.²

E. Education

28. Education in Gibraltar is governed by the Education and Training Act of 1974. According to information provided by the administering Power, education is free and compulsory for children between the ages of 4 and 15, and the language of instruction is English. Public education in Gibraltar comprises 11 primary schools and two secondary schools, as well as the Gibraltar College of Further Education and the Vocational Training Centre, serving almost 5,000 pupils in 2009. According to the administering Power, expenditure on education during the year ending on 31 March 2009 was approximately £23.8 million. Students who obtain a place at a United Kingdom university are entitled to Gibraltar Government scholarships.

29. According to the communiqué resulting from the aforementioned third ministerial meeting of the Forum of Dialogue, the participants agreed on the importance and value of the promotion of educational and cultural understanding, and of encouraging bilingualism and educational exchanges and opportunities in Gibraltar and the region, and identified concrete areas for negotiation to enhance this agenda.

30. As previously reported, in September 2006, in its joint ministerial statement, the Forum of Dialogue on Gibraltar welcomed the proposal of the Government of Spain to open an Instituto Cervantes in Gibraltar. At the ministerial meeting of the Forum held in July 2008, the participants agreed that they would seek to enhance educational cooperation at all levels and that the early establishment of the Instituto Cervantes in Gibraltar would contribute to the achievement of those objectives. According to the aforementioned communiqué of July 2009, the Forum's

² See Central Intelligence Agency, *The World Factbook*, www.cia.gov.

participants looked forward to the Instituto starting activities from premises in Market Lane.

F. Crime and crime prevention

31. Law enforcement in the Territory continues to be the responsibility of the Royal Gibraltar Police, in conjunction with the Gibraltar Police Authority established under the Police Act 2006. In accordance with the Act, the Governor has overall, ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and for the policing aspects of national security, including internal security.

32. The 2008/2009 annual report from the Gibraltar Police Authority points to a significant year-on-year rise in crime levels, with the total number of crimes recorded as having increased from nearly 3,700 to approximately 3,900. According to Police Authority data, this is a five-year high.³

33. According to the communiqué resulting from the aforementioned third ministerial meeting of the Forum of Dialogue, the participants agreed that there should be full cooperation in the common objective to fight crime, whether local or international, and to address the particular challenge of organized crime, and listed a series of areas in which they would seek agreement to ensure that this occurred, including exchange of information, joint operations, simplified and clear channels of communication and agreed procedures.

VI. Forum of Dialogue on Gibraltar

34. Negotiations between the United Kingdom and Spain on the subject of Gibraltar led in 2004 to the establishment of a Forum of Dialogue on Gibraltar, separate from the Brussels Process, as previously reported. Since the establishment of the Forum, there have been several rounds of discussions, both before and after the ministerial meeting of the Forum on 18 September 2006, when agreement was reached on a package of issues, now known as the Córdoba Statements, and on 2 July 2008, when the three sides endorsed at a second ministerial meeting the broad objectives of future agenda issues encompassing cooperation in six areas, namely, the environment; financial services and taxation; judicial, customs and police cooperation; education; maritime communications and safety; and visa-related issues.

35. On 21 July 2009, the Minister for Foreign Affairs of Spain, the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, and the Chief Minister of Gibraltar held, in Gibraltar, the third ministerial meeting of the Forum under the terms of the joint communiqué of 16 December 2004. According to the resulting communiqué, the participants reconfirmed their commitment to the creation of a constructive atmosphere of mutual confidence and cooperation for the benefit and prosperity of Gibraltar and the whole region, in particular the Campo de Gibraltar, and endorsed the notion that cooperation and mutual trust should become the norm.

³ Gibraltar Police Authority Annual Report 2008-2009, 31 March 2009

36. Furthermore, the participants agreed on a detailed framework for forthcoming negotiations to take forward their agenda on the six issues for the second phase of the Forum's work that was agreed upon in London the previous year. The participants committed themselves to reaching agreements in these areas as soon as possible and, in any event, by the following year's ministerial round envisaged for 2010. They also reaffirmed that, as was the case with the Córdoba Statements, any agreements in these areas would have no implications whatsoever regarding sovereignty and jurisdiction.

37. Subsequently, in January 2010, the participants decided that representatives of the Governments of Spain, the United Kingdom and Gibraltar would meet over the upcoming few weeks to take forward talks on the six areas of cooperation, subsequently referring any accomplishments to the Forum, where work would continue with a view to reaching agreements at the 2010 ministerial meeting of the Forum.

38. Further information on various areas of implementation and cooperation under the Forum is reflected above in the appropriate sections.

VII. Future status of the Territory

A. Position of the administering Power

39. In a statement at the 6th meeting of the Special Political and Decolonization Committee (Fourth Committee), held on 9 October 2009, the Deputy Permanent Representative of the United Kingdom to the United Nations, Philip Parham, intervened in exercise of the right of reply. As reflected in the summary record (A/C.4/64/SR.6), the Deputy Permanent Representative, *inter alia*, welcomed the continued progress of the trilateral process of dialogue between his Government and the Governments of Spain and Gibraltar, which was making a real difference for people on both sides of the border. The United Kingdom Government continued to enjoy very cordial relations with Spain and to work constructively on all Gibraltar-related issues. The Córdoba agreements were without prejudice to the respective views of the United Kingdom and Spain on sovereignty, regarding which the United Nations did not take a view. He reaffirmed the United Kingdom's long-standing commitment to the people of Gibraltar that it would never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their wishes, and confirmed that it would not enter into a process of sovereignty negotiations with which Gibraltar was not content. While the United Kingdom delegation would join in the consensus resolution on Gibraltar, the reference to the Brussels Process had to be seen in that context. The implications of Gibraltar's well-known position on the Brussels Process, as regarded both sovereignty and bilateralism between the United Kingdom and Spain, were clear.

40. The Deputy Permanent Representative went on to say that Gibraltar's 2006 Constitution provided for a modern and mature relationship between Gibraltar and the United Kingdom. That description would not apply to any relationship based on colonialism. It was regrettable that, thus far, the Special Committee's outdated approach did not seem to have recognized that situation and that the criteria used by the Committee in considering whether a Non-Self-Governing Territory should be de-listed failed to take it into account.

41. The Deputy Permanent Representative concluded his intervention on the question of Gibraltar by saying that the 2006 Constitution did not in any way diminish the United Kingdom's sovereignty over Gibraltar or its full international responsibility for Gibraltar, including its external relations and defence, and as the Member State responsible for Gibraltar in the European Union. That fully accorded with the freely expressed views of the people of Gibraltar. The United Kingdom Government did not accept that the principle of territorial integrity had ever been applicable to the decolonization of Gibraltar, nor did it accept that the existence of a sovereignty dispute implied that the people of Gibraltar did not have the right to self-determination.

B. Position of the territorial Government

42. Speaking to the Fourth Committee on 7 October 2009, the Chief Minister of Gibraltar, Peter Caruana, stated, as reflected in the summary record (A/C.4/64/SR.4), that the sovereignty of Gibraltar was neither the United Kingdom's to give away, nor Spain's to demand. Nor was Gibraltar a part of Spain, and its self-determination therefore did not affect Spain's territorial integrity.

43. Moreover, the Special Committee on decolonization had taken to fabricating extraordinary and untenable rules, such as its suspension of the principle of self-determination for Territories affected by a sovereignty dispute. Gibraltar had therefore been obliged to bypass the Special Committee and secure decolonization by other means. In doing so, it had relied on General Assembly resolution 2625 (XXV), which provided that the emergence into any political status suitable to a Territory's circumstances that was freely determined by the people of the Territory constituted an act of self-determination.

44. Continuing, the First Minister said that the decolonization of Gibraltar had already taken place not only in practice but also in law, by virtue of Gibraltar's Constitution. Gibraltar was a democratic, modern, prosperous and self-governing country. The idea that its status could be the subject of a deal between two other States was untenable, as was Spain's sovereignty claim, which lay outside the competence of the Special Committee.

45. The Chief Minister stressed that the recently initiated trilateral Forum of Dialogue was the only viable way forward. In July 2009, a third ministerial meeting had taken place between him and the Ministers for Foreign Affairs of the United Kingdom and Spain, the latter of whom had made a historic and unprecedented visit to Gibraltar. The Government of Gibraltar was enduringly committed to those discussions.

C. Position of the Government of Spain

46. The Deputy Permanent Representative of Spain, Román Oyarzun, made a statement before the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly on 9 October 2009. As reflected in the summary record (A/C.4/64/SR.6), the Deputy Permanent Representative recalled that, in numerous resolutions and decisions, the General Assembly had recognized that the colonial situation in Gibraltar was in violation of the Charter of the United Nations, since it undermined the unity and territorial integrity of Spain. The

principle of self-determination could not be applied to the decolonization of Gibraltar because the current inhabitants were not a colonized people but had been used to dispossess the indigenous Spanish population. The United Nations doctrine on the decolonization of Non-Self-Governing Territories firmly established the protection of the rights of the indigenous inhabitants vis-à-vis the interests of the colonizers.

47. In the case of Gibraltar, there were in fact, two overlapping disputes: the first, on sovereignty, referred to the Territory transferred under the Treaty of Utrecht that should be returned to Spain in application of the United Nations decolonization doctrine. The second dispute referred to borders, since part of the Territory had been occupied by the United Kingdom without any legal basis. Spain must fully recover jurisdiction over the isthmus, which in Spain's view, was currently being illegally exercised by the United Kingdom.

48. The Deputy Permanent Representative said that, although attempts had been made to convince the Committee to artificially separate the issues of decolonization and sovereignty and to consider them separately, the United Nations had consistently held that, in the case of Gibraltar, those disputes, which undermined the territorial integrity of Spain, were inseparable and constituted a clear violation of its decolonization doctrine. Since 1964, the United Nations had adopted numerous decisions and resolutions calling for bilateral negotiations between the United Kingdom and Spain, with a view to reaching a negotiated solution that took into account the interests of the inhabitants of the colony. The Government of Spain once again affirmed its readiness to resume direct talks with the United Kingdom.

49. The Deputy Permanent Representative concluded by saying that the Government of Spain would continue to work diligently within the Forum for Dialogue on Gibraltar, with a view to resolving issues relating to local cooperation for the social welfare and economic development of the inhabitants of Gibraltar and the Campo de Gibraltar. At the ministerial meeting of the Forum held in July 2009, with the participation of the Spanish Minister for Foreign Affairs and Cooperation, a framework had been established for continued progress in six new areas of cooperation, which, along with the measures adopted in the first phase of the Forum, would improve the well-being and standard of living of the inhabitants of Gibraltar and the Campo de Gibraltar.

D. United Kingdom-Spain negotiations

50. There were no bilateral negotiations on Gibraltar during 2009 within the framework of the so-called Brussels Process, which is separate from the Forum of Dialogue on Gibraltar. According to information provided by Spain, it has raised questions on sovereignty in conversations with the United Kingdom.

E. United Kingdom-Gibraltar discussions

51. The Governments of the United Kingdom and Gibraltar have both recognized that the 2006 Constitution provides for a modern and mature constitutional relationship between the two sides, one which is not based on colonialism.

52. As reflected in the previous working paper prepared by the Secretariat (A/AC.109/2009/15), both the Government of the United Kingdom and the territorial Government believe that the de-listing and decolonization criteria of the United Nations are anachronistic; and, at the same time, they recognize that, under Article 73 *e* of the Charter of the United Nations, the United Kingdom is obliged to continue to submit annual reports until such time as the General Assembly votes in favour of the removal of a Territory from its list of Non-Self-Governing Territories.

VIII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

53. A representative of Spain attended the Caribbean regional seminar on the implementation of the Second International Decade for the Eradication of Colonialism, held in Saint Kitts and Nevis, from 12 to 14 May 2009, and made a statement.

54. The Special Committee discussed the question of Gibraltar on 9 June 2009, and had before it the 2009 working paper prepared by the Secretariat concerning the Territory (A/AC.109/2009/15). As reflected in the summary record (A/AC.109/2009/SR.4), statements were made by the representative of Spain and by the leader of the opposition in Gibraltar. On the proposal of the Chairman, the Committee decided to continue consideration of the question at its next session and, in order to facilitate consideration of the question by the Fourth Committee, to transmit the relevant documentation to the General Assembly.

B. Special Political and Decolonization Committee (Fourth Committee)

55. The Fourth Committee of the General Assembly considered the question of Gibraltar on 7 and 9 October 2009. On 7 October, as reflected in the summary record (A/C.4/64/SR.4), the Committee heard statements on the question of Gibraltar by the Chief Minister of Gibraltar, Peter Caruana, and a petitioner, Joseph Bossano, leader of the opposition. On 9 October, as reflected in the summary record (A/C.4/64/SR.6), statements were made by the Deputy Permanent Representative of Spain, Roman Oyarzun and, in exercise of the right of reply, by the Deputy Permanent Representative of the United Kingdom, Philip Parham, who referred to the statement made by the representative of Spain. At its 9th meeting, on 14 October, the Fourth Committee adopted draft decision A/C.4/64/L.5 on the question of Gibraltar, submitted by the Chair, without a vote.

C. Action by the General Assembly

56. At its 62nd plenary meeting, on 10 December 2009, the General Assembly, on the recommendation of the Fourth Committee, adopted decision 64/521, on the question of Gibraltar, without a vote. The decision reads as follows:

"The General Assembly, recalling its decision 63/525 of 5 December 2008 and the statements agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland in Brussels, on 27 November 1984,⁴ and in Madrid, on 27 October 2004, and noting the establishment, pursuant to the latter, of the tripartite Forum for Dialogue on Gibraltar, separate from the Brussels Process, under the statement made jointly by the Governments of Spain, the United Kingdom and Gibraltar on 16 December 2004:

"(a) Urges both Governments, while listening to the interests and aspirations of Gibraltar, to reach, in the spirit of the statement of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;

"(b) Welcomes the recent successful trilateral Ministerial meeting of the Forum for Dialogue in Gibraltar on 21 July 2009 and the shared commitment to make progress in six new areas of cooperation."

⁴ See A/39/732, annex.